

**House Minority Leader Fred Strahorn (D-Dayton) fundraiser, Elevator Brewery and Draught Haus, 161 N. High St., Columbus, 5 p.m., (Sponsor levels: Sponsor: \$2,500, Host: \$1,000, Guest: \$500, Friend: \$350 to Committee to Elect Fred Strahorn)**

**Sen. John Eklund (R-Chardon) fundraiser, Lexi's on Third, 100 E. Broad St., Columbus, 5 p.m., (\$2,500 Event Chair | \$1,000 Event Host | \$500 Event Sponsor | \$350 Individual to Friends of John Eklund)**

**Sen. Lou Terhar (R-Cincinnati) fundraiser, Fleming residence, 2374 Brixton Road, Columbus, 5:30 p.m., (\$2,500 Event Sponsor | \$1,000 Sponsor | \$500 Host | \$250 Couple | \$200 Individual to Friends of Lou Terhar)**

### **Friday, October 13**

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**OSBA Law & Media Conference, Ohio State Bar Association, 1700 Lake Shore Dr., Columbus, 9:30 a.m., (Registration at 8:30 a.m. For more information contact Halle Malcomb, [hmalcomb@ohiobar.org](mailto:hmalcomb@ohiobar.org))**

### **Tuesday, October 17**

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**Republican Senate Campaign Committee pig roast fundraiser, Land Grant Brewery, 424 W. Town St., Columbus, 5 p.m., (\$10,000 Whole Hog Sponsor | \$5,000 Half Hog Sponsor | \$2,500 Loin Sponsor | \$1000 Bacon Sponsor | \$500 per Attendee to RSCC)**

**Rep. Michael Sheehy (D-Oregon) fundraiser, Club 185, 185 E Livingston Ave, Columbus, 5:30 p.m., (Sponsor levels: Sponsor \$1,000, Host \$500, Friend \$350 to Committee to Elect Michael Sheehy)**

**Rep. Adam Miller (D-Columbus) fundraiser, Capital Club, 41 S. High St., Columbus, 5:30 p.m., (Sponsor \$1,000, Supporter \$500, Attendee \$250 to Miller for Ohio)**

### **Wednesday, October 18**

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**Sen. Peggy Lehner (R-Kettering) fundraiser, Athletic Club of Columbus, Gold Room, 136 E. Broad St., Columbus, 7:30 a.m., (\$2500 Event Chair | \$1000 Event Host | \$500 Event Sponsor | \$350 Individual to Citizens for Lehner)**

**Sen. Sandra Williams (D-Cleveland) fundraiser, Einstein's, 41 S High Street, Columbus, 7:30 a.m., (Platinum Sponsor - \$1,000; Gold Sponsor - \$500 or Suggested Contribution - \$350 to Friends of Sandra Williams)**

**Rep. Steve Arndt (R-Port Clinton) fundraiser, deNOVO, 150 S. High Street, Columbus, 11:30 a.m., (Special Guest Rep. Ryan Smith. Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends for Steve Arndt)**

**Rep. Kathleen Clyde (D-Kent) fundraiser, Club 185, 185 E. Livingston Ave., Columbus, 5 p.m., (Gold Sponsor \$2,500, Silver Sponsor \$1,000, Bronze Sponsor \$500, Supporter \$250 to Kathleen Clyde Committee)**

**Rep. Glenn Holmes (D-McDonald) fundraiser, Dempsey's, 346 S. High St., Columbus, 5:30 p.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Committee to Elect Glenn Holmes)**

**Sen. Stephanie Kunze (R-Hilliard) fundraiser, Scioto Country Club, 2196 Riverside Dr., Columbus, 5:30 p.m., (Special Guest: Senate President Larry Obhof. Event**

**Sponsor \$1000, Event Host \$500, \$150 per couple, \$100 per individual to Citizens for Stephanie Kunze)**

**Thursday, October 19**

**Rep. Teresa Fedor (D-Toledo) fundraiser, Maumee Bay Brew Pub, 27 Broadway Street, Toledo, 4:30 p.m., (Friend: \$250; Host: \$500; PAC: \$1,000 to Citizens with Fedor)**

**Sen. Bill Beagle (R-Tipp City) shooting fundraiser, Vandalia Range and Armory, 100 Corp Center Drive, Vandalia, 5:30 p.m., (\$1,000 Event Sponsor; \$500 Lane Sponsor; \$100 per Person; \$50 Dinner only to Citizens for Bill Beagle)**

**Tuesday, October 24**

**Rep. Ryan Smith (R-Bidwell) fundraiser, Athletic Club of Columbus - Lounge, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$10,000; Sponsor: \$5,000; Host: \$2,500; Patron: \$1,000 to Friends of Ryan Smith)**

**Rep. Jack Cera (D-Bellaire) & Rep. Nick Celebreeze (D-Parma) fundraiser, Gresso's, 961 S. High St., Columbus, 7 p.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Friends of Nicholas J. Celebreeze and Jack Cera for State Representative)**

**Wednesday, October 25**

**Rep. Sarah LaTourette (R-Chesterland) and Rep. Theresa Gavarone (R-Bowling Green) fundraiser, Due Amici, 67 E. Gay Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to LaTourette for Ohio and/or Citizens for Gavarone)**

**Rep. Teresa Fedor (D-Toledo) fundraiser, The Lounge at Latitude 41, Renaissance Hotel, 50 North 3rd Street, Columbus, 5:30 p.m., (Friend: \$250; Host: \$500; PAC: \$1,000 to Citizens with Fedor)**

**Thursday, October 26**

**Rep. Glenn Holmes (D-McDonald) fundraiser, Cimenero's Banquet Center, 123 N. Main St., Niles, 5 p.m., (Victory Sponsor \$1,400, Touchdown Sponsor \$700, Field Goal Sponsor \$300, Individual Tickets \$50 to Committee to Elect Glenn Holmes)**

**Sunday, October 29**

**Democratic gubernatorial debate, Greater Columbus Convention Center, 400 N. High St., Columbus**

**Ohio Democratic Party state dinner, Greater Columbus Convention Center, 400 N. High St., Columbus, (Featured speaker: Virginia Gov. Terry McAuliffe)**

**Tuesday, October 31**

**Rep. John Rogers (D-Mentor on the Lake) & Rep. John Patterson (D-Jefferson) fundraiser, Club 185, 185 E Livingston Ave, Columbus, 5:30 p.m., (Sponsor \$1,000,**

Host \$500, Friend \$350 to Friends of Rogers and Committee to Elect John Patterson)

### Wednesday, November 1

Rep. Emilia Sykes (D-Akron) & Sen. Vernon Sykes (D-Akron) fundraiser, Einstein's Bros. Bagels, 41 S. High St., Columbus, 8 a.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Emilia Sykes Campaign and Sykes for Office)

Rep. Craig Riedel (R-Defiance) and Rep. Kristina Roegner (R-Hudson) fundraiser, Due Amici, 67 E. Gay Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Citizens to Elect Craig Riedel and/or Kristina Daley Roegner for Ohio)

Rep. Dave Greenspan (R-Westlake) fundraiser, Oliver's, 26 N. High Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends of Dave Greenspan)

Rep. Bill Seitz (R-Cincinnati) and Rep. Bill Blessing (R-Cincinnati) fundraiser, Athletic Club of Columbus - Parlor A/B, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$2,000; Sponsor: \$1,000; Host: \$500; Individual: \$350 to Seitz for Ohio and/or Citizens for Blessing)

Rep. Bernadine Kent (D-Columbus) fundraiser, Lincoln Cafe, 740 E. Long St., Columbus, 5:30 p.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Kent for Ohio)

### Thursday, November 2

Rep. Steve Hambley (R-Medina) fundraiser, High & Low Winery, 588 Medina Road, Wadsworth, 6 p.m., (Special Guest President Larry Obhof. Chair: \$1,000; Host: \$500; Sponsor: \$350 to Hambley for House Committee)

### Wednesday, November 8

Rep. Mike Duffey (R-Worthington) and Rep. Laura Lanese (R-Grove City) fundraiser, OHROC, 21 W. Broad Street, Floor 7, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 Citizens for Duffey and/or Lanese for Ohio)  
Sen. Cliff Hite (R-Findlay) fundraiser, Club 185, 185 E. Livingston Ave., Columbus, 5:30 p.m., (\$2,500 Chair | \$1,000 Host | \$500 Sponsor | \$350 Attendee to The Committee to Elect Cliff Hite)

### Tuesday, November 28

Rep. Scott Ryan (R-Newark) fundraiser, Pub Mahone, 31 E. Gay Street, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Citizens for Scott Ryan)

### Wednesday, November 29

Rep. Michele LePore-Hagan (D-Youngstown) fundraiser, Einstein Bros. Bagels, 41 S High Street, Columbus, 8 a.m., (Sponsor \$1,000, Host \$500, Friend \$350 to Michele Lepore-Hagan for State Representative)

**Rep. Scott Lipps (R-Franklin) fundraiser, Due Amici, 67 E. Gay Street, Columbus, 11:30 a.m., (Special Guest Rep. Ryan Smith. Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends of Scott Lipps)**

**Ohio House Republican Organizing Committee fundraiser, Athletic Club of Columbus - Gold Room, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$2,500; Host: \$1,000; Sponsor: \$500 to OHROC)**

**Rep. Jim Butler (R-Oakwood) fundraiser, Athletic Club of Columbus - Parlor A/B, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Butler for Ohio)**

### **Thursday, November 30**

**Rep. Derek Merrin (R-Monclova Township) fundraiser, OHROC, 21 W. Broad Street, Floor 7, Columbus, 11:30 a.m., (Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends of Derek Merrin)**

### **Tuesday, December 5**

**Rep. Gary Scherer (R-Circleville) fundraiser, Ringside, 19 N. Pearl Street, Columbus, 5 p.m., (Special Guest Rep. Ryan Smith. Chair: \$1,000; Host: \$500; Sponsor: \$350 to Friends of Gary Scherer)**

### **Wednesday, December 6**

**Rep. Kirk Schuring (R-Canton) fundraiser, Athletic Club of Columbus - Parlor A/B, 136 E. Broad Street, Columbus, 5 p.m., (Chair: \$2,500; Host: \$1,000; Sponsor: \$500 to Citizens for Schuring Committee)**

### **Wednesday, February 28**

**Ohio Cable Telecommunications Association Legislative Luncheon, Renaissance Hotel, 50 N. 3rd St., Columbus, 12 p.m.**

### **Monday, June 4**

**Ohio Cable Telecommunications Association Golf Outing, The Lakes, 6740 Worthington Rd., Westerville**

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## Volume #86, Report #189 – Friday, September 29, 2017

### Grading The State Report Card: Experts, Policy Makers Weigh In On How Ohio Assesses K-12 Education

From confusion and frustration to hopefulness and enlightenment, the responses to state report card grades released this month have run the gamut.

Schools and parents around the state have largely dismissed the rankings, which have dropped significantly since new standards were put in place a few years ago. Many have publicly criticized the grades, saying they're not rooted in reliable methods or just plain don't make sense.

A handful of education researchers and stakeholder groups, meanwhile, have released reports that rely on the report card data and tout its value in tracking trends. The analyses compare charter and traditional schools and gauge, among other things, how disadvantaged students are stacking up to their more privileged peers.

But, like them or not, report cards are here to stay. New federal K-12 laws continue to require states to assess students and schools as well as publish annual ratings.

So how then do policymakers and the K-12 community put an end to the report card frenzy that's become an annual occurrence since the state upped learning standards and moved to an A-F grading scale?

For some, the answer is to change how the bevy of school and testing data is presented.

**Push For Change:** Rep. Mike Duffey (R-Worthington) said he plans to introduce legislation and bring together a stakeholder group to overhaul report cards so that they no longer grade districts, but instead simply present information.

He said the goal is to fairly provide details of how schools are doing at educating students and quiet public distrust surrounding the current grading system.

"There seems to be an emerging consensus among superintendents and school boards of education and I think legislators are picking this up from the community and parents and from their own experience that report cards have been too volatile," Rep. Duffey said.

More than a dozen other states have instituted an A-F grading scale over the last few years. Like Ohio, many have put off handing out one overall grade to each district in an effort to ease into the change.

However, a handful may never get to that point in their reporting because of backlash to the grades. West Virginia, Alabama and Texas are just a few states debating how to move forward, according to reports.

Rep. Duffey said the public outcry in Ohio is already loud enough to require change, proving that parents and students think their schools are doing better than the report cards reflect.

Many districts, including wealthy suburban districts that were previously accustomed to getting As, have received Fs in a handful of categories over the past two years despite overall scores improving this year. Urban districts that have retooled their entire curricula and cultures say their progress isn't translating to higher report card scores.

"Parents are by and large siding with their school districts over the state, which means the state report card does not have the public's trust," he said. "When it doesn't have the public's trust, it fails to have value as a tool for the state."

The progress measure of the report card is the most-often challenged of the six graded components.

Rep. Andy Brenner (R-Powell), who chairs the House Education Committee, said its calculation needs changed because it is a zero-sum ranking, meaning districts can only score better each year if they're making more progress in relation to the progress other schools have made.

For example, students at Olentangy Local Schools saw growth on average, but their progress component score was an F because there wasn't as much growth as experienced by students at Rocky River City Schools, which received an A, he said.

"If everybody else is doing OK, then they can fall off and I'm not really sure that that's what we should do," Rep. Brenner said.

"I think we need to make sure that we're giving the data to the schools and districts so they understand what they need to do to improve the districts if they're capable," and the current grading formula doesn't always allow that, he said.

Data analyst Howard Fleeter with the Ohio Education Policy Institute said he's supportive of the data that's gathered to inform the progress component, but also suggested there could be a better way to grade it.

"When I was teaching, I thought that if every student was worthy of an A, every student should get an A," he said.

Having closely analyzed report card data, Mr. Fleeter said he's grateful for the wealth of information Ohio collects, which is much more than other states.

Over the years, it's helped him find data trends that can predict how students will perform in the future, reveal persistent learning gaps rooted in poverty, and determine how much it costs to educate different types of students, among other things, he said.

However, when it comes to how the state compiles the data to determine grades, Mr. Fleeter said there'd be no love lost on his part if the state threw out its A-F scale.

"I think that the data that is on the report cards is valuable. I am less of a fan of the actual letter grades," he said.

"I think one way you could defend the letter grades is to say, 'There is so much data that's out there. That regular person needs some sort of a shorthand way to make sense out of it and that's what the letter grades do.' The problem is that the letter grades also lead to some shame."

When the learning standards weren't as stringent and the A-F scale wasn't yet introduced, nearly 300 districts received the highest rating of Excellent on state report cards, according to Department of Education records.

Now that many of those same schools are receiving low marks on report cards, their morale may be down, Mr. Fleeter said.

Rep. Brenner suggested that the change in report card rankings could also have a negative economic impact on the state. He said it could signal to businesses looking to move to Ohio that students are less prepared than they were a few years ago when grades were good, even though districts, parents and many lawmakers don't feel that's the case.

"If you get Fs on the report card, would a major company like Amazon take a look at that?" he questioned.

Sen. Peggy Lehner (R-Kettering) said she'd be willing to take legislative action to change report cards, which is the only way modifications can be made. It has to be under the right circumstances, though, she said:

"I'm always open to looking to make the report card a better vehicle that gives us more accurate information and if that's the goal, yes. If the goal is we don't like the results, so let's get rid of the report card, I'd be much more concerned, frankly," said Sen. Lehner, who chairs the Senate Education Committee.

"We need to make sure that the report card is an accurate tool of assessment, but we do need to make sure that we also assess."

**Reframing Report Cards:** In an effort to stem the wave of concerns that come with every report card release, Superintendent of Public Instruction Paolo DeMaria has continually stressed that viewers should look outside the box.

The Ohio School Boards Association advises its members to do the same, said Damon Asbury, the group's director of legislative services. Board members are also encouraged to highlight their districts' non-academic accomplishments.

"It's an important measure, it tells us a lot of information, but it's not the only measure of how to judge your school district and its progress," he said of report cards.

To aid in the push to reshape thinking, ODE this year introduced a section on the individual grade card pages where districts can link to websites highlighting their successes.

Although the aim has been to reframe the general public conversation about report cards, superintendent DeMaria said the importance of the data they provide should still be at the forefront for policy makers.

"It does not paint a complete picture of what is happening in our schools and districts across the state, but it does paint a picture of what's happening academically to a certain extent and it is something that we should pay attention to," he said.

In a presentation before the Speaker's Task Force on Education and Poverty, he said report card results show a clear connection between economically disadvantaged students and poor academic outcomes. (See Gongwer Ohio Report, September 28, 2017)

They also show that a few schools with high concentrations of disadvantaged students are also high achieving, meaning that those students can learn under the right circumstances, he said.

"It allows us then to dig into this phenomenon that we're here to talk about and that is understanding the achievement gaps and acknowledging them," Superintendent DeMaria said of the assessment results displayed through report cards.

Sen. Lehner said there's also a lot that can be learned from new report card indicators showing how Ohio students scored on the ACT and SAT, which are included in the Prepared for Success measure.

The scores were "abysmally low and seem to track pretty well with some of the other data that we're seeing in the report card and that should give a lot of people pause that the report card, as clumsy as it may be, as lengthy as it may be, that it actually is telling us something that we need to really sit up and pay attention to," she said.

When the first report cards were released about two decades ago, they only showed what percentage of students were proficient on new state exams in core subjects, how many students were graduating and school attendance rates.

The report cards now include six components, ten measures and a handful of ungraded data such as financial information. It takes into account student scores on more than a dozen standardized tests.

The state's data collection to assess schools has come a long way, Mr. Fleeter said. So while report cards shouldn't serve as the sole arbiter of whether schools are preparing students for the future, it wouldn't be wise to dismiss them.

"Now we have the ability to disaggregate the data and look at different types of students and you can compare them and you really can understand what's behind things and where the problems are to a greater degree," he said. "People tend to not think about it, but we are lucky that we have all this information that's out there because we can understand better what we're doing well and what we're not as a state."

### **Governor Candidates Tout Qualifications At GOP Central Committee**

Three of Ohio's four Republican gubernatorial candidates on Friday worked to sway a room full of party leaders on why they should top the ballot heading into the 2018 election.

Secretary of State Jon Husted, U.S. Rep. Jim Renacci and Lt. Gov. Mary Taylor each spoke before the GOP State Central Committee at a Columbus-area convention center. Attorney General Mike DeWine, also a candidate for the top executive office, was unable to attend.

Although Ohio Republican Party chairwoman Jane Timken remains adamant the party will not endorse to avoid tipping the primary scales, each statewide GOP contender was given the chance to appear before the committee.

Mr. Husted kicked off the remarks, touting his endorsements from pro-gun groups and his outreach through ten satellite call centers that have already made more than 20,000 calls.

"We outraised all candidates for this race," Mr. Husted said. "And you haven't seen anything yet. We're going to continue to build on that momentum and I'm really excited about it."

Emphasizing his efforts to streamline the business filing process and make his office self-sufficient, he positioned himself as a candidate who will follow through on his promises and thereby restore the faith of jaded voters who are frustrated with the system.

"I believe I can do the best job for you, that I can be the voice of the Republican party and the voice of the State of Ohio that will bring new ideas," Mr. Husted said.

Rep. Renacci, meanwhile, held true to his campaign strategy of painting himself as a Donald Trump-style outsider surrounded by candidates representing the status quo.

He struck a more conciliatory tone than his first television ad, however, giving some praise to Gov. John Kasich and stating that the party has "strong candidates." His TV spot released Thursday, the first of the campaign, blasted his three primary opponents as "Columbus fat cats."

Rep. Renacci described his background as a business owner who has created jobs and said voters are looking for a different type of candidate at the ballot.

"That's who I am," he said. "I'm an individual who hasn't spent my entire life in politics. That's the direction we need to take -- a little bit different vision."

Lt. Gov. Taylor emphasized her past election performance, including her status as the only Republican to win statewide office during the 2006 election when Democrats swept into office.

"We need a candidate in the general election who can win in November no matter what the political landscape looks like," she said. "And I win elections. Period."

She highlighted her tax and healthcare proposals, including her desire to eliminate Medicaid expansion, and pointed to her leadership of the Common Sense Initiative as a testament to her desire to curb government regulations.

Without naming names, she also seemed to downplay her rivals' fundraising strength and the advantage of Mr. DeWine's name recognition.

"People in our state, they choose our leaders," she said. "If money and a family name was all that mattered in races, Jeb Bush would be our nominee and Hillary Clinton would be our president today."

David Pepper, Ohio Democratic Party's chairman, in response called the Republican's primary gubernatorial race "one big race to the right."

"The Republican candidates are focused on nasty attacks against one another, while our Democratic candidates are focused on addressing the concerns of voters," Mr. Pepper said. "We've had 57 straight months of job growth trailing the national average, we're struggling to deal with the nation's worst opioid crisis and our public school system has fallen from fifth in the nation to 22nd. The Republican status quo isn't working for Ohio, and Democrats will represent change in 2018."

Other candidates seeking statewide office that addressed the group include Treasurer Josh Mandel, a U.S. Senate hopeful, Rep. Keith Faber (R-Celina), who's running for state auditor, and Rep. Robert Sprague (R-Findlay), a state treasurer candidate.

**Endorsements:** The group's endorsement policy review committee also recommended the party take no stance on Issue 1 -- the Ohio Crime Victims Bill of Rights -- or Issue 2 -- the Ohio Drug Price Relief Act. The full committee accepted that recommendation with no discussion.

The Republican committee did officially endorse a pair of Ohio Supreme Court candidates: Judge Mary DeGenaro and Judge Craig Baldwin.

Judge DeGenaro, of the Seventh District Court of Appeals, and Judge Baldwin, of the Fifth District Court of Appeals, are running for seats occupied by age-limited Justices Terrence O'Donnell and Bill O'Neil.

In other business, the committee also appointed Katie DeLand to the 12<sup>th</sup> District seat formerly held by Becky Engel.

#### **Portman, Brown Recommend Two Federal District Court Nominees**

The state's two U.S. senators on Friday announced recommendations to fill two seats on the federal bench - and one could mean a change in Gov. John Kasich's cabinet.

U.S. Sen. Rob Portman (R-Terrace Park) and U.S. Sen. Sherrod Brown (D-Cleveland) have recommended Bureau of Workers' Compensation Administrator/CEO Sarah Morrison to fill a seat on the U.S. District Court of the Southern District of Ohio soon to be vacated by retiring Judge Thomas Rose.

The lawmakers also forwarded to the White House a recommendation that Fourth District Court of Appeals Judge Matt McFarland fill the seat on the same court vacated by Judge Gregory Frost.

"I am honored to be considered for the position of federal district judge, and I sincerely appreciate the support of Senators Portman and Brown," Ms. Morrison said in a statement. "As the approval process moves forward, I remain committed to serving Ohio's employers and injured workers at the Bureau of Workers' Compensation."

Sen. Portman said Ms. Morrison "enjoys sweeping support for this seat because of her breadth of experience in the public and private sectors, including her time as CEO of Ohio's Bureau of Workers Compensation."

Ms. Morrison, who would serve from Columbus, has led the BWC since May 2016 after joining the bureau in November 2012. Prior to that, she was a partner at Taft Stettinius & Hollister, LLP in Columbus.

She has a law degree from Capital University.

Judge McFarland, who would serve from the court in Dayton, was elected to the state appellate court in 2004 and reelected in 2010 and 2016. Prior to that, he served as a magistrate in the Scioto County Common Pleas Court Probate/Juvenile Division. He also served as an assistant prosecutor in Scioto and Licking counties and as special counsel in the attorney general's office.

He also has a law degree from Capital University.

"It is truly an honor to continue to serve the citizens of Ohio and if nominated by the president and confirmed by the Senate, I will work tirelessly to make Ohio proud in the administration of justice," he said.

Sen. Portman said Judge McFarland has "been a dedicated public servant in the state court of appeals."

"His esteemed reputation is well deserved and I am confident he will continue to distinguished service on the bench," he said.

Sen. Brown said in both cases he was proud to join his colleague in a bipartisan process and thanked both Ms. Morrison and Judge McFarland for their willingness to serve.

Both were recommended to the senators by a bipartisan advisory committee.

The recommendations will be vetted by the White House and the U.S. Senate Judiciary Committee before being considered by the upper chamber.

#### **Senate Weighs Healthy Ohio Proposal, Looks At Submission Options**

The Healthy Ohio Medicaid waiver proposal appears to be getting a new look by the Senate, but it's not clear if the chamber will vote to override Gov. John Kasich's veto or approach the effort another way.

The proposal, which was included in the previous budget and rejected by the federal Centers for Medicare and Medicaid Services, was included again in the current budget (HB 49) but vetoed by the governor.

The waiver has drawn questions as to whether it could gain federal approval due to the lack of flexibility the legislation would give the state in negotiating with federal regulators. Nevertheless, some officials say they are optimistic that the Trump administration would be more receptive to the plan than President Barack Obama's.

"I have had positive conversations with the administration in Washington about the Healthy Ohio waiver," Senate President Larry Obhof (R-Medina) said this week. "I look forward to additional conversations about that, whether the language that is currently pending in the override is exactly right or not, or if there's changes that we could make to that as separate legislation."

Sen. Obhof said the question of whether or not the Senate takes up the proposal would hinge on the continued debate over the Affordable Care Act at the federal level.

"I do anticipate that if the Medicaid expansion is here for the next few months, at some point we're going to re-evaluate the Healthy Ohio plan and whether to move ahead with the override or introduce additional legislation," he said.

The waiver request would allow the state to have certain Medicaid enrollees pay into modified health savings accounts, which would be used to cover co-pays. The state would also contribute to the accounts, with that money acting as a deductible. People who move off of Medicaid would then be able to use the money left over to cover insurance and other expenses

Some, including members of a Senate committee that discussed waivers this week, have said the current proposal might be too detailed and prescriptive, and would not allow the state to negotiate changes with CMS to earn approval. (See Gongwer Ohio Report, September 26, 2017)

In his veto message, Gov. Kasich said the proposal has already been rejected by the federal government once.

"The Administration shares the goal of expanding Ohio's flexibility in managing our Medicaid programs, and is committed to working with the General Assembly to seek achievable solutions that would accomplish this goal," he wrote. "Requiring Medicaid to seek an identical waiver for the Healthy Ohio Program would be duplicative and an ill-advised use of Medicaid resources."

Rep. Jim Butler (R-Oakwood), one of the architects of the proposal, said the state is still able to negotiate changes with CMS despite how prescriptive it is in code.

"In terms of flexibility in negotiations, there is absolutely nothing in statute that would prohibit changes being made and then being ratified by the legislature," he said in an interview.

Rep. Butler said the Senate should follow the House's lead and vote to override the veto. He said the intent was never to have the administration go to the federal government and say "take it or leave it" with what was passed by the legislature. Any changes requested by CMS could then be approved by the General Assembly.

"Anything to the contrary, I think, is an excuse for not submitting a waiver that would have meaning for our health care system and truly control health care costs," he said.

### **Abortion Totals Continued To Decline In 2016, State Reports**

The number of abortions in Ohio continued its more than decade-long decline in 2016, falling to just above 20,000, according to figures released Friday.

The Department of Health reported a total of 20,672 abortions in the state in 2016, down about 1% from the prior year's total of 20,976.

Of those, 19,543 were obtained by Ohio residents. Since 2001, the annual decline has averaged about 900 per year, ODH said.

The abortion rate was 8.9 per 1,000 resident women ages 15-44, which was unchanged from 2015, the agency reported. There were 142 abortions by Ohio residents per 1,000 live births.

The number of abortions, which has been tracked since 1976, peaked at more than 45,000 in 1982.

Ohio Right to Life credited the decline to anti-abortion policies enacted at the state level.

"This report is further proof of how successful the pro-life movement has been in Ohio" Mike Gonidakis, the group's president, said in a statement. "This past year alone, we saw 304 lives saved from the pain and suffering of abortion. We continue to advance groundbreaking legislation to protect the unborn, and we thank Governor John Kasich and the Ohio General Assembly for their role in promoting a culture of life in Ohio. By enacting common sense and life-saving initiatives Ohio is protecting both mothers and their babies."

The group touted legislation it's currently pushing for in the General Assembly, including bills to ban abortions due to a Down syndrome diagnosis (HB 214, SB 164) and to ban "dismemberment" abortions (SB 145).

"The historic low of abortions reported today indicates that the culture of life we've strived for is becoming a reality," Mr. Gonidakis said. "That being said, Ohio Right to Life is whole-heartedly committed to fighting for the sanctity of human life, until the Abortion Report is unnecessary because there are no more abortions committed in Ohio."

NARAL Pro-Choice Ohio Deputy Director Jaime Miracle pointed to an increase in the number of non-surgical abortions, from 1,195 in 2015 to 3,818 in 2016. She said that showed the effects of a change by the U.S. Food and Drug Administration to allow for a one-pill dosage of a medication used in non-surgical abortions.

"The real story with this year's report is that Ohio women are accessing more affordable medication abortion at a rate closer to before Ohio law required physicians to use an outdated, less effective, more expensive protocol," she said in a statement. "When health care policy is shaped by science, not politics, women win. This report shows that the new FDA protocol allows women to access the health care they need and choose the abortion method that is best for them."

Ms. Miracle said Ohio's nine facilities were able to provide safe, legal and affordable abortions to more than 20,000 women in Ohio.

"Unfortunately, Governor John Kasich and his band of usual suspects have wasted the taxpayers' time and money in pushing illegal and immoral tactics designed to block access to abortion clinics," she said. "Since taking office, Governor Kasich has signed 18 restrictions limiting access to reproductive healthcare in Ohio. Everyone deserves access to safe, affordable reproductive health care, including abortion, in their communities and we will continue to fight to ensure this is the reality in Ohio."

## **Home Care Touted As Alzheimer's Dementia Option; Commerce Publicizes Medical Pot License Applicants**

People suffering from dementia can receive support in their homes, allowing them to stay out of nursing facilities and assisted living longer, the House Speaker's Task Force on Alzheimer's and Dementia was told this week.

Joe Russell, executive director of the Ohio Council for Home Care and Hospice, told the task force that providing care for people in their own homes and communities is a quality of life issue.

Family caregivers often face a stressful and constant task of looking after loved ones with Alzheimer's and dementia, he said. Providing scheduled respite services and other in-home services can ease the burden on family members without them having to turn to institutional facilities.

Mr. Russell said the Department of Aging has explored a shared living service under the PASSPORT Medicaid waiver, which would allow a live-in caregiver to provide support in the senior's home. He said his group supports the concept but was concerned about the proposed reimbursement rates.

He said the state could also look at programs to allow for 24-hour in-home care for people with limited family supports. That could include a waiver that allows for personal care, homemaking and companion services provided by a live-in provider supplemented by home care aides in shifts, and monitoring technology.

"In the long run, this system would most likely be less costly than institutional care as well as provide an environment that is familiar and stable for the individual to help them remain part of their community for as long as their health allows them to do so," he said in testimony. "This arrangement would allow the individual to maintain their daily routines that are vital to their quality of life and overall health, as well as make it easier for interaction with family and friends in their community."

The task force also heard from Susan Dickey, who works with the Greater Cincinnati Area Chapter of the Alzheimer's Association. She discussed practice recommendations as part of the association's Quality Care Campaign.

"In the long run, this system would most likely be less costly than institutional care as well as provide an environment that is familiar and stable for the individual to help them remain part of their community for as long as their health allows them to do so," she said in prepared testimony. "This arrangement would allow the individual to maintain their daily routines that are vital to their quality of life and overall health, as well as make it easier for interaction with family and friends in their community."

She said the recommendations could be used as a foundation for evaluating clinical outcomes for care in the state.

**Medical Marijuana Updates:** The Department of Commerce Friday released information from the applications for cultivator licenses. The business entity and contact information forms for the 185 applicants for those licenses are now available online.

The DOC anticipates awarding cultivator licenses in November.

Earlier this week, the DOC announced that two universities - Central State University and Hocking College - had applied for laboratory applications. The department said it would accept applications from private testing laboratories between Nov. 27 and Dec. 8.

### **Addiction Recovery Advocates Rally; State Awards Behavioral Health Grants...**

Advocates in the fight against addiction gathered at the Statehouse Friday in the annual Rally for Recovery, emphasizing the importance of family and community members in supporting people battling substance use disorder.

The event hosted by Ohio Citizen Advocates for Addiction Recovery featured advocacy groups and providers offering information about social supports for people with addiction. Those who received awards included Gov. John Kasich, who was recognized with the Recovery Ally Award for his work promoting policy to fight drug addiction and expanding Medicaid.

Tracy Plouck, director of the Department of Mental Health and Addiction Services, said the rally was a way to demonstrate the importance of supporting people battling substance abuse.

"This is an excellent opportunity to raise awareness about how many people around our state are actually living in recovery," she said in an interview. "They're in all neighborhoods, all communities, and recovery is possible. I think this is an opportunity to reduce stigma and show that it isn't just individuals who are living in recovery. It's families, it's neighbors, it's employers, everybody can come together and provide support."

Director Plouck said community supports are essential in helping people who start down the path to recovery stay there.

"Clinical services are increasingly available because of the Medicaid expansion and the changes that have occurred in the last few years, but the availability of different recovery supports is equally important, really," she said. "You can connect with sobriety, but you need supports in the community, you need to not feel isolated in order to sustain that recovery."

Speakers included Joe Smith, a father of three daughters who suffer from addiction, who said recovery takes more than one person.

"It takes the community to recover," he said. "Each one of us who recovers helps facilitate the recovery of others."

**Behavioral Health Grants:** ODMHAS announced \$6 million in grants this week for community mental health and addiction service providers. The funding was awarded on a first-come, first-served basis to certified providers who intended to initiate or expand workforce capacity through training, tuition reimbursement and loan repayment programs.

"Ohio, like the rest of the nation is experiencing challenges to recruit, retain and support, on a long term basis, our existing workforce in community behavioral health agencies," Director Plouck said in a statement. "These grants represent another step forward as we work collectively to build a highly-qualified workforce and significantly increase system capacity at a time when communities continue to face serious challenges with opioid addiction and mental illness."

The department sent award notices to 61 providers across the state, who were each eligible for one-time funding up to \$100,000.

**Pharmacy Grant:** The State Board of Pharmacy this week also announced it received a grant worth nearly \$400,000 from the U.S. Department of justice to fund a two-year pre-criminal intervention program to deal with prescription drug abuse.

The program will use data from the Ohio Automated Rx Reporting System to identify signs of prescription drug abuse and connect those people with drug treatment or other support services.

"The goal of the program is to prevent addicted individuals from entering the criminal justice system," Pharmacy Board Executive Director Steven Schierholt said. "By engaging early, we can direct individuals to treatment before they turn to illicit, and more potent, drugs such as heroin or fentanyl."

#### **[High Court Clarifies Record Sealing Law; Buckeye Institute Joins In Public Sector Union Case; Ohio Professor Nominated For Federal Judgeship...](#)**

A trial court is under no obligation to wait until the statute of limitations expires to seal the records in a case dismissed without prejudice, the Ohio Supreme Court ruled.

The decision authored by Justice Terrence O'Donnell resolves a conflict between the Fifth District Court of Appeals and the Eighth District Court of Appeals.

"Had the legislature intended for the applicable statute of limitations in a case dismissed without prejudice to expire before a trial court can seal a record under R.C. 2953.52(B)(4), it could have used the language it did in R.C. 2953.52(B)(3) regarding applications to seal records of DNA specimens. But it did not do so," he wrote.

The conflict was certified after James Dye of Pickerington had five misdemeanor charges against him dismissed without prejudice in the Fairfield County Municipal Court. He unsuccessfully sought to have the dismissal sealed by the trial court, a decision that was upheld by the Fifth District Court of Appeals, the high court reported.

Mr. Dye argued that both courts erred in determining that he was not eligible to have the records sealed because the statute of limitations had not expired.

The state, like Mr. Dye, argued that the statute is unambiguous. However, it said the language clearly makes him ineligible to have his record sealed until the statute of limitations expires.

Justice O'Donnell was joined in his opinion by five of his fellow members of the court, while Chief Justice Maureen O'Connor concurred in judgement only.

**Union Case:** The Buckeye Institute has joined a legal battle that could have major implications for public sector unions.

The group filed an amicus brief in the case of *Janus v. AFSCME*, which is currently before the U.S. Supreme Court.

Mark Janus, a child support specialist in Illinois, argues that being forced to pay agencies fees after opting out of his collective bargaining unit is a violation of his First Amendment rights.

"We are pleased that the Supreme Court will take up this crucial case to protect the First Amendment rights of public employees," President and CEO Robert Alt said. "Forcing employees to pay for speech with which they disagree and forcing them to pay fees to a union in order to keep their jobs is unjust and unconstitutional. We are confident that Mr. Janus will prevail and that the court will rule in favor of the First Amendment rights of all public employees."

**Federal Judgeship:** President Donald Trump has nominated Ryan T. Holte to serve on the bench of the U.S. Court of Federal Claims.

Mr. Holte currently serves as an associate professor of law and the director of the Center for Intellectual Property Law and Technology at the University of Akron School of Law.

He serves as general counsel, partner, and co-inventor of an electrical engineering technology company. He also worked as a trial attorney at the Federal Trade Commission, practiced law as an associate at Jones Day and clerked for a judge on the Eleventh Circuit Court of Appeals.

**Federal Grant:** An eight-state collaborative formed to combat the opioid crisis will receive a \$1 million federal grant to aid in its efforts, the high court announced Friday.

The Regional Judicial Opioid Initiative - comprised of Ohio, Illinois, Indiana, Kentucky, Michigan, North Carolina, Tennessee and West Virginia - was awarded the grant by the U.S. Department of Justice's Bureau of Justice Assistance.

"Our regional effort serves as a bridge connecting key leaders and staff from law enforcement, to courts, to treatment providers, to children services and other aid organizations," Chief Justice O'Connor said. "This grant will go a long way toward helping close the information, enforcement, services and treatment gaps that have allowed this epidemic to fester and grow."

**Volunteers Honored:** Fourteen individuals who lead tours at the Thomas J. Moyer Ohio Judicial Center were honored for their service by all seven high court justices during a luncheon, according to the court.

"Your knowledge and enthusiasm are appreciated throughout the building by the staff and the justices," Chief Justice O'Connor said. "I want you to know that. Those of us who work here, and you by extension, as being a face with many of the students that come into this building, are extremely proud of the building and proud of what you do for us in showcasing the building and this institution."

**Judicial Candidates:** The Board of Professional Conduct announced its 2018 schedule of seminars for judicial candidates.

**Disciplinary Hearings:** The Board of Professional Conduct also announced disciplinary hearings scheduled for October.

### **Borges Issues Warning After OEC Ruling; Dems Pile On Over ECOT Overpayments; Renacci Cancels NFL Ad**

An Elections Commission ruling could drastically alter the landscape of elections in Ohio, a former chairman of the Ohio Republican Party said Friday.

Matt Borges, who is now working for the Yes on Issue 2 campaign, said the panel's Thursday decision to dismiss two complaints against the opponents of a November ballot measure could open the door for political campaigns to use LLCs as pass-through entities to avoid financial disclosures.

Dismissed were complaints that the opposition PAC, Ohioans Against Issue 2, intentionally hid the source of its fundraising and violated state campaign finance disclosure laws. (See Gongwer Ohio Report, September 28, 2017)

Both complaints filed by the Yes campaign centered on the idea that PhARMA, a trade association of the pharmaceutical industry, was used as a pass-through entity to conceal millions of dollars of contributions from the drug industry to the PAC.

"If they had to do some long-term damage to Ohio to get what they want, they had no problem with that," Mr. Borges said. "They have been trying to keep folks in the dark throughout this entire campaign."

But Dale Butland, a spokesman for the No campaign, said the letter of the law was followed.

"If Matt Borges and the Yes side believe that Ohio law should be changed, then they should go to the legislature and ask them to do that," he said.

Mr. Butland also said Mr. Borges complaint about the dismissal is emblematic of a campaign in a "death spiral."

"The reason that they are going to lose isn't because there hasn't been enough debates, it's not because our side is not following the law, it's because they have a lousy proposal that will do great damage to this state and its people," he said.

**ECOT Overpayments:** With the announcement Thursday that the Electronic Classroom of Tomorrow will be docked an additional \$19 million for overpayments, one gubernatorial candidate is calling for the school to be "expelled."

Betty Sutton called the school's proposed change in status to a dropout and recovery institution a "sham."

"A failing school shouldn't be allowed to teach at-risk kids just so it can continue to rip off taxpayers. When a school lies and cheats they should be expelled. It's plain and simple. If they can't do basic math, they should not pretend to teach Ohio's kids," the Democrat said.

"It is beyond ridiculous that a sham school that leads Ohio in dropouts would be designated a dropout recovery school. We need to make Ohio the opportunity state by providing a good education for our children and that starts with expelling ECOT."

A Department of Education audit found that ECOT last year over-reported the number of full-time students it enrolls by 18.5% (See Gongwer Ohio Report, September 28, 2017)

The online charter school has already been order to repay \$60 million from the 2015-16 school year.

**Renacci Ad:** Those watching the Cleveland Browns take on the Cincinnati Bengals this weekend will not be learning about U.S. Rep. Jim Renacci's gubernatorial campaign.

The Alliance Republican announced Friday that he has canceled a \$20,000 ad buy during the game in the wake of a growing number of NFL players using the National Anthem as a platform to protest what they believe is racial injustice.

"While the First Amendment clearly affords NFL players and officials the freedom to engage in this appalling behavior, having the right to do something does not mean it's the right thing to do. Throughout our nation's history, countless American men and women of all backgrounds and races have sacrificed deeply to protect and preserve the ideals that our nation and its flag stand for - and our National Anthem serves as a tribute to that sacrifice that we should honor, not disparage," he said.

"And while the right to speak and protest peacefully is a fundamental freedom that we as Americans enjoy, protesting the most sacred symbols of those freedoms is both sadly ironic and an inexcusable, offensive display of contempt for what our nation stands for."

**Harbaugh Endorsement:** Ken Harbaugh, who is seeking to oust U.S. Rep. Bob Gibbs (R-Lakeview), announced that the Communications Workers of America has endorsed his candidacy in the 7th Congressional District.

"I am honored to have this endorsement from CWA. Ohio workers are among the best in the world. We need to fight for fair trade agreements and give our hard-working men and women a level playing field on which to compete," the Democrat said. "Folks working full-time jobs can and should be able to support their families. CWA is fighting for these improvements and so am I."

Added CWA District 4 Vice President Linda Hinton: "Ken's education, military background, and the fact he has spent a life helping others, show the experience and character needed to make workers and working families a priority."

#### **Agency Briefs: Ohio Minimum Wage Rising In 2018; OPSB; USDA; ODA**

Ohio's minimum wage will rise to \$8.30 per hour next year, up about 2% alongside the rate of inflation, the Department of Commerce announced Friday.

The \$8.30 wage applies to non-tipped employees at businesses with gross annual receipts of more than \$305,000 per year. For tipped employees, the new minimum wage will be \$4.15 per hour.

The current minimum wage is \$8.15 for non-tipped employees and \$4.08 for tipped employees.

For people who work at companies with gross receipts below \$305,000, and for 14- and 15-year-olds, the minimum wage will be the federal rate of \$7.25 per hour.

The state increase stems from an increase of 1.9% in the consumer price index.

**Public Utilities:** The Power Siting Board will hold a hearing Dec. 5 to allow the public to voice views about a proposal by Vinton Solar Energy LLC to build a solar-powered electric generation facility in Vinton county.

The hearing will take place at 6 p.m. that day at the Vinton County Community Building in McArthur.

The proposed facility would include arrays of solar panels with a combined generating capacity of up to 125 megawatts. It would be located on 1,950 acres of leased land in Elk Township, and the facility would be connected to the grid through American Electric Power's nearby Elk substation.

The adjudicatory hearing in the case will be at 10 a.m. Dec. 15 at the PUCO offices in Columbus.

**U.S. Department of Agriculture:** The department will award a \$22,910 solid waste management grant to Mahoning County, U.S. Rep. Tim Ryan (D-Niles) announced. The money will help fund the county's solid waste management district's rural recycling education and awareness program.

"I am pleased to announce this federal funding for Mahoning County," Rep. Ryan said in a statement.

"When it comes to preserving our environment for our kids, like many other issues, change starts at home. I am encouraged to see state and local governments like Mahoning County continuing to lead the charge on sustainability education. This funding will give rural Mahoning County an important boost, and represents a crucial federal investment. As long as I am in Congress, I will continue to fight to bring these important funds back to Northeast Ohio."

**Agriculture:** Gov. John Kasich on Friday signed an executive order creating an emergency rule on inflatable amusement ride safety inspections related to a change in the biennial budget bill.

The measure (HB 49) eliminated the statutory inspection fee for rides and granted authority to the Department of Agriculture director to develop rules for the fee structure.

The emergency rule announced in the EO will fill the gap until ODO develops the final rules for the inspections.

#### **Governor's Appointments**

**State Dental Board:** Theodore T. Bauer, DDS of Columbus for a term beginning September 29, 2017, and ending April 6, 2021.

**Dentist Loan Repayment Advisory Board:** Jaime L. Darr, DDS of Massillon for a term beginning September 29, 2017, and ending January 28, 2019.

**Ohio Expositions Commission:** John R. Page of Lewis Center for a term beginning September 29, 2017, and ending December 1, 2020.

## **Gongwer Statehouse Job Market Updated**

Gongwer's Statehouse Job Market has been updated. The update is available on the Gongwer website.

Subscribers interested in posting job openings on Gongwer's employment board can send job descriptions and other information to [gongwer@gongwer-oh.com](mailto:gongwer@gongwer-oh.com).

## **Attorney General's Opinion**

No. 2017-032. Requested by Williams County Prosecuting Attorney Katherine J. Zartman. **SYLLABUS:**

A person may not serve simultaneously as prosecuting attorney of Williams County and member of a joint-county board of alcohol, drug addiction, and mental health services of a joint-county alcohol, drug addiction, and mental health service district of which Williams County is a part.

## **Supplemental Agency Calendar**

### **Monday, October 2**

Banking Commission, 77 South High Street, Room East B on the 31st floor, Columbus, 10 a.m.

### **Tuesday, October 3**

BRAC & Military Affairs Task Force, Rickenbacker Air Guard Base, 7370 Minuteman Way, Columbus, 1 p.m.

### **Wednesday, October 4**

Board of Building Appeals, Ohio Department of Transportation, District Three Office, Conference Room, 906 Clark Avenue, Ashland, 8:30 a.m.

Real Estate Commission, 77 South High Street, 22nd Floor, Columbus, 9 a.m.

### **Thursday, October 5**

Power Siting Board, 180 E. Broad St., Room 11B, Columbus, 3:30 p.m.

### **Friday, October 6**

Board of Building Standards, 6606 Tussing Road, Training Room 1, Reynoldsburg, 10 a.m.

## **Supplemental Event Planner**

### **Tuesday, October 3**

Ohio Domestic Violence Network to recognize National Domestic Violence Awareness Month, Museum Gallery, Statehouse, Columbus, 9:30 a.m.

17 S. High St., Suite 630

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**Click the  after a bill number to create a saved search and email alert for that bill.**

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## Legislative Committee Schedules beginning 10/2/2017

### Monday, October 2

Joint Committee on Agency Rule Review (Committee Record) (Chr. Duffey, M., 644-6030), Rm. 121, 1:30 p.m.

### Tuesday, October 3

Senate Insurance & Financial Institutions (Committee Record) (Chr. Hottinger, J., 466-5838), Finance Hearing Rm., 9:30 a.m.

- Confirmation hearing on governor's appointment of William Sanderson, Ohio Housing Finance Agency

HB 52 DEED SOLICITATION (Rezabek, J.) To regulate the solicitation of certain deeds. (2nd Hearing-Proponent)

SB 120 DEBT ADJUSTING (Eklund, J.) Regarding debt adjusting (3rd Hearing-Opponent & interested party)

SB 121 MAMMOGRAM COVERAGE (Eklund, J.) To include tomosynthesis as part of required screening mammography benefits under health insurance policies. (2nd Hearing-Proponent)

SB 169 TRAVEL INSURANCE (Wilson, S.) To oversee the sale of travel insurance. (2nd Hearing-Proponent)

HB 199 MORTGAGE LENDING (Blessing, L.) To create the Ohio Residential Mortgage Lending Act for the purpose of regulating all non-depository lending secured by residential real estate and to limit the application of the current Mortgage Loan Law to unsecured loans and loans secured by other than residential real estate. (2nd Hearing-Proponent)

Senate Judiciary (Committee Record) (Chr. Bacon, K., 466-8064), North Hearing Rm., 10:15 a.m.

SB 195 DOGS LAW (Beagle, B.) To revise provisions of the Dogs Law governing nuisance, dangerous, and vicious dogs, to revise enforcement of that Law, and to establish a notification process regarding complaints of certain violations of that Law. (1st Hearing-Sponsor)

SB 196 BULLYING (Williams, S.) To create the offense of aggravated bullying, a third-degree misdemeanor. (1st Hearing-Sponsor)

SB 130 FRANKLIN COUNTY COURT (Tavares, C.) To add two judges to the Domestic Relations Division of the Franklin County Court of Common Pleas to be elected in 2018. (1st Hearing-Sponsor)

SB 150 DOMESTIC VIOLENCE (Brown, E.) To prohibit a person convicted of domestic violence or assault of a family member, or a person subject to certain protection orders, from having a firearm; to establish a procedure for surrendering all firearms in the person's possession; and to name the act the "Domestic Violence Survivors Protection Act." (1st Hearing-Sponsor)

**SB 138** **INMATE SEARCHES** (Eklund, J.) To authorize a corrections officer to cause a body cavity search to be conducted, to establish separate rules and restrictions for conducting strip searches, and to limit the right of any person to commence a civil action for a violation of the law governing body cavity searches and strip searches to violations related to body cavity searches. (1st Hearing-Sponsor)

**SCR 6** **EXTRADITION** (O'Brien, S.) To urge the President of the United States, the United States Secretary of State, and the Congress of the United States to compel Brazil to extradite Claudia Hoerig to stand trial for the aggravated murder of her husband, Major Karl Hoerig, and to request that the United States terminate foreign aid payments to Brazil if Claudia Hoerig is not extradited. (1st Hearing-Sponsor)

**SCR 10** **GAULT DECISION** (Thomas, C.) To recognize 2017 as the fiftieth anniversary of *In re Gault*. (1st Hearing-Sponsor)

**SB 171** **PROTECTION ORDERS** (Hottinger, J.) To increase the penalty that applies to the offense of violating a protection order under certain circumstances and to require electronic monitoring of those convicted of violating certain protection orders to be carried out by probation agencies. (1st Hearing-Sponsor)

House Aging & Long Term Care (Committee Record) (Chr. Arndt, S., 644-6011), Rm. 122, 2:30 p.m.

- Presentation from Dr. Robert Applebaum of the Scripps Gerontology Center: "Policy Does Matter: Continued Progress in Providing Long Term Services and Supports for Ohio's Older Population"

**HB 286** **PALLIATIVE CARE** (LaTourette, S.) To create the Palliative Care and Quality of Life Interdisciplinary Council, to establish the Palliative Care Consumer and Professional Information and Education Program, and to require health care facilities to identify patients and residents who could benefit from palliative care. (2nd Hearing-Proponent-Possible substitute)

House Public Utilities (Committee Record) (Chr. Cupp, R., 466-9624), Rm. 116, 3 p.m.

**HB 239** **SECURITY RESOURCES** (Smith, R., Carfagna, R.) To allow electric distribution utilities to recover costs for a national security generation resource. (6th Hearing-All testimony-Possible amendments)

Senate Health, Human Services & Medicaid (Committee Record) (Chr. Burke, D., 466-8049), South Hearing Rm., 3:15 p.m.

- Confirmation hearing on governor's appointments of Joshua Cox, Benjamin Fields and Megan Marchal, State Board of Pharmacy; Michael Gonidakis, State Medical Board and Robert Schuerger, II, Ohio Athletic Commission

**HB 145** **CONFIDENTIAL TREATMENT** (Huffman, S., Sprague, R.) To provide for the establishment of a confidential program for the treatment of certain impaired practitioners and to declare an emergency. (1st Hearing-Sponsor)

**SB 143** **DAY DESIGNATION** (Eklund, J.) To designate September 25 as 'International Ataxia Awareness Day' in Ohio. (2nd Hearing-Proponent)

**HB 111** **MENTAL HEALTH COMMITMENTS** (Carfagna, R., Ryan, S.) To authorize certain advanced practice registered nurses to have a person involuntarily transported to a hospital for a mental health examination. (2nd Hearing-Proponent)

## Wednesday, October 4

Senate Ways & Means (Committee Record) (Chr. Eklund, J., 644-7718), South Hearing Rm., 9 a.m.

**HB 118** PROPERTY TAX COMPLAINTS (Merrin, D.) To expressly prohibit the dismissal of a property tax complaint for failure to correctly identify the property owner. (2nd Hearing-Proponent)

**SB 186** BUSINESS INCOME (Peterson, B.) To provide that wages and guaranteed payments paid by a professional employer organization to the owner of a pass-through entity that has contracted with the organization may be considered business income. (3rd Hearing-Opponent & Interested party)

**HB 69** TIF DISTRICTS (Cupp, R.) To require reimbursement of certain township fire and emergency medical service levy revenue forgone because of the creation of a municipal tax increment financing district. (4th Hearing-All testimony)

House Transportation & Public Safety (Committee Record) (Chr. Green, D., 644-6034), Rm. 017, 10 a.m.

- Presentations on autonomous and connected vehicles from Jonathan Weinberger, VP of Innovation and Technology for the Auto Alliance and Josh Fisher, manager state government affairs for Global Automakers

## Tuesday, October 10

House Session (Committee Record) (Chr. Rosenberger, C., 466-3357), House Chamber, 11 a.m.

- If needed Senate Rules & Reference (Committee Record) (Chr. Obhof, L., 466-7505), Majority Conf. Rm., 11 a.m.
- If needed Senate Session (Committee Record) (Chr. Obhof, L., 466-4900), Senate Chamber, 1:30 p.m.
- If needed

## Wednesday, October 11

Senate Rules & Reference (Committee Record) (Chr. Obhof, L., 466-7505), Majority Conf. Rm., 11 a.m.

House Session (Committee Record) (Chr. Rosenberger, C., 466-3357), House Chamber, 1:30 p.m.

Senate Session (Committee Record) (Chr. Obhof, L., 466-4900), Senate Chamber, 1:30 p.m.

## Thursday, October 12

Ohio Retirement Study Council (Committee Record) (Chr. Schuring, K., 228-1346), Rm. 121, 10 a.m.

**NOTE:** Click bill or resolution number links to see the legislative history compiled by Gongwer News Service. Click the ... after a bill number to create a saved search and email alert for that bill. Click "Full Text" if present to view the text of legislation on the Legislature's Web site.

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## **Daily Activity Planner for Saturday, September 30- Monday October 2**

### **Legislative Committees**

**Thursday, October 12**

**Joint Committee on Agency Rule Review (Committee Record) (Chr. Duffey, M., 644-6030), Rm. 121, 1:30 p.m.**

### **Agency Calendar**

**Monday, October 2**

**Banking Commission, 77 South High Street, Room East B on the 31st floor, Columbus, 10 a.m.**

**Speaker's Task Force on Heroin, Opioids, Prevention, Education, and Safety, MetroHealth, Scott Auditorium, Cleveland, 1:30 p.m.**

### **Event Planner**

**Sunday, October 1**

**Ohio Legislative Black Caucus 50th Anniversary events, Canton, (5:15-6:15pm: Welcome Reception & Hall of Fame Tours; 6:15pm-8:15: Program & Dinner; 8:20pm-10:00pm: Live Music with the Four Keeps; 10:00pm: After Party Reception at the M-Bar)**

**Sen. Bob Peterson (R-Sabina) fall fest fundraiser, Peterson Farm, 5564 Grassy Branch Rd., Sabina, 4 p.m., (\$25 per Person or \$50 per Family to Peterson for Good Government)**

**Monday, October 2**

**Ohio Legislative Black Caucus 50th Anniversary events, Canton, (10:30am: Golf Outing Start (registration begins at 8:30am); 1:00pm: First Ladies Library Tour (registration begins at 12:00pm); 2:00pm: President McKinley Museum Tour (registration begins at 12:00pm); 3:00pm-4:00pm: OLBC Cookout/Reception at the National Historic Clearview Golf Course)**

**Lobbyist and Employer Activity & Expenditure Reports for the May-August 2017 reporting period are due**

**OHROC Chairman's Cup golf outing fundraiser, Virtues Golf Club, 1 Long Drive, Nashport, 9 a.m., (9:00am Registration; 10:00am Shotgun Start. Event Host: \$5,000; Event Sponsor: \$2,500; Tee Sponsor: \$1,250; Foursome: \$1,000; Individual Golfer: \$250; Reception Only: \$100 to OHROC)**

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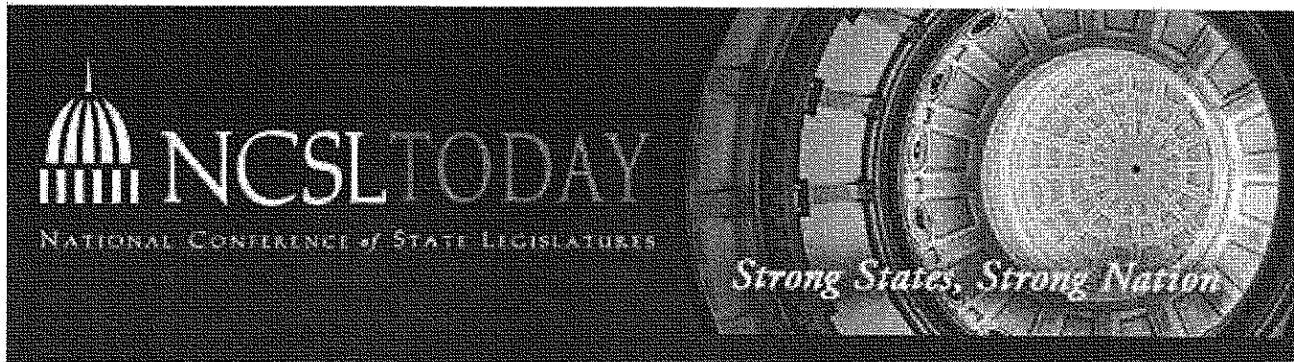
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## TOP NEWS Oct. 3, 2017

### Russian hacking fuels return to paper ballots

*Stateline*

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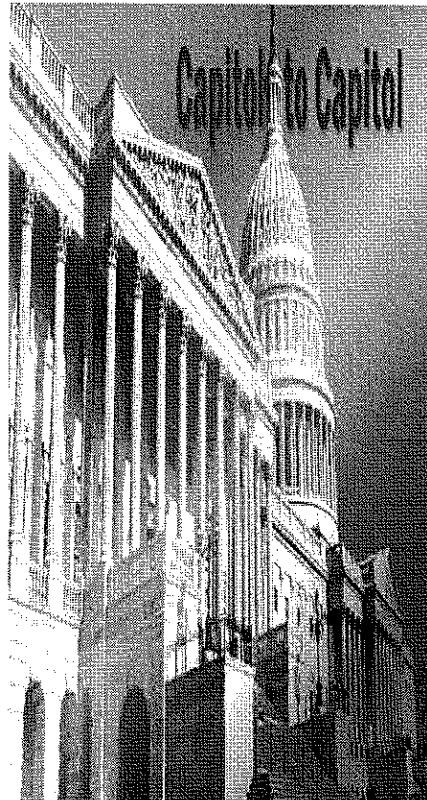
After Russian hackers targeted state voting systems last year, some officials are renewing their focus on switching to paper ballots, which they say are more secure and leave an audit trail. **NCSL consultant Katy Owens Hubler** quoted.

### Mass shooting rekindles gun debate

*The Hill*

The national debate over gun violence was rekindled Monday after a gunman in Las Vegas opened fire on an outdoor concert crowd, killing at least 59 and wounding or injuring more than 500 others.

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## **Government jobs sprouting as legal pot looms in California**

*Associated Press*

The state is on a hiring binge to fill what eventually will be hundreds of new government positions by 2019 intended to bring order to the legal pot economy, from keeping watch on what's seeping into streams near cannabis grows to running background checks on storefront sellers who want government licenses.

## **Arkansas spending for Medicaid rises**

*Arkansas Online*

Driven by enrollment that surged past expectations, spending on Arkansas' expanded Medicaid program grew by almost 24 percent during the fiscal year that ended June 30, surpassing what state officials initially projected by about \$200 million.

## **Stagnant farm economy slows growth in Iowa, Nebraska**

*The Des Moines Register*

A stagnant farm economy that has slowed Nebraska and Iowa's income growth to the lowest levels in the nation is also contributing to state budget problems that could linger through next year, officials said.

## **How hurricane responders track people whose lives depend on power**

*Stateline*

For people who rely on electricity-dependent machines to maintain their health, power outages are more than a

## **Capitol to Capitol: Congress shifts to tax reform**

On Sept. 27, President Donald Trump and the "Big Six"—which includes Senate Majority Leader Mitch McConnell (R-Ky.), Speaker Paul Ryan (R-Wis.), Senate Finance Chairman Orrin Hatch (R-Utah), House Ways and Means Chairman Kevin Brady (R-Texas), Treasury Secretary Steven Mnuchin and National Economic Council Director Gary Cohn—released their "unified framework" for overhauling the U.S. tax code.

## **Allowing purchases of out-of-state health insurance**

**Register now for the NCSL Capitol Forum Dec. 10-13 in Coronado, Calif.**

## **Financing clean energy projects through property assessments**

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frustration. State and local emergency managers are using data to keep them safe.

## **Supreme Court to hear public sector union dues case (again)**

In 2016 the U.S. Supreme Court was expected to overrule a nearly 40-year old precedent requiring public sector employees who don't join the union to pay their "fair share" of collective bargaining costs.

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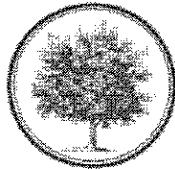
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**FOR IMMEDIATE RELEASE**  
October 3, 2017

### **The Buckeye Institute: Utility Subsidies Hurt Competition and Hurt Ohio**

**Columbus, OH -** The Buckeye Institute's Greg R. Lawson testified (see full testimony below) today before the Ohio House Public Utilities Committee on the proposed bailout for the Ohio Valley Electric Corporation that is outlined in House Bill 239.

**In his testimony**, Lawson discussed the negative impacts government subsidies and bailouts can have. "When governments intervene in the energy market, or any business, policymakers allow for unfair advantages at taxpayer expense, and energy companies that do not receive the benefits of a government bailout are often unable to offer their services competitively."

Lawson went on, "Providing subsidies also negatively impacts the state's employment and economy. Similar to Ohio's renewables portfolio standards, which The Buckeye Institute **analyzed earlier this year**, this Ohio Valley Electric Corporation (OVEC) bailout will lead to lost job opportunities and wasted economic potential."

The Buckeye Institute isn't the only group to note the negative impact the proposed subsidies would have. The **Legislative Service Commission** estimated that the OVEC charge, if approved, would cost all Ohio electricity customers nearly \$257 million per year for the next 24 years.

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On closing, Lawson urged policymakers to fully restructure Ohio's energy market saying, "For far too long, we have been caught in a strange hybrid where regulated investor-owned utilities retain generation capacity through affiliates, and utilities are able to use electric security plans to pile additional generation charges, like the proposed OVEC charge, on top of the market price. This has led to significant long-term problems where the market has not been allowed to be fully functional. Consequently, the promises of restructuring have only been partially fulfilled."

# # #

**Interested Party Testimony Submitted to the  
Ohio House Public Utilities Committee on  
House Bill 239**

**Greg R. Lawson, Research Fellow  
The Buckeye Institute for Public Policy Solutions  
October 3, 2017**

Thank you Chairman Cupp, Vice Chair Carfagna and Ranking Member Ashford for the opportunity to testify before the Ohio House Public Utilities Committee. My name is Greg R. Lawson. I am the research fellow at **The Buckeye Institute for Public Policy Solutions**.

The Buckeye Institute, a defender of free-market principles, has long supported economic growth through competitive means. Our position is that markets should be free from government subsidies or regulations that help particular businesses or industries.

Since the late 1990s, Ohio has moved toward competitive, customer-centric electricity markets. As electricity rates have risen across the country, Ohio and other states with restructured wholesale markets have enjoyed cheaper electricity due to a more competitive market. The deregulation of Ohio's market has increased competition and given consumers more choices and control over meeting their energy needs.

Unfortunately, it is not unusual for industries and businesses to ask governments for subsidies or bailouts, to pay for declining business. Bailouts, however, end up distorting economic activity and often slow long-term growth in the state. Worse still, "non-bypassable" riders require all customers to pay for the bailout through increased electricity bills.

When governments intervene in the energy market, or any business, policymakers allow for unfair advantages at taxpayer expense, and energy companies that do not receive the benefits of a government bailout are often unable to offer their services competitively. Subsidies can also inhibit new developments and technological advancements from entrepreneurial companies that do not receive special government backing, thus slowing long-term growth and innovation.

Providing subsidies also negatively impacts the state's employment and economy. Similar to Ohio's renewables portfolio standards, which The Buckeye Institute analyzed earlier this year, this Ohio Valley Electric Corporation (OVEC) bailout will lead to lost job opportunities and wasted economic potential. In looking at Ohio's renewables portfolio standards we found that even relatively small artificial increases in electricity prices cost Ohio tens of thousands of jobs and several billion dollars in GDP.[1]

In fact, the Legislative Service Commission's conservative estimate is that the OVEC charge, if approved as proposed, would cost all Ohio electricity customers nearly \$257 million per year for the next 24 years.[2]

Of equal concern, is the contagious nature of subsidies and bailouts. Joe Bowring, president of Monitoring Analytics, said in a recent interview, "If one owner receives special subsidies, it is the fiduciary duty of other unit owners to seek comparable subsidies." [3] Eventually, either everyone will receive a government subsidy or government will step back and allow customers and the market to decide who succeeds.

Subsidies also reward companies for poor choices and bailout companies that could have avoided their current crisis. While the companies involved in OVEC were involved in something of a shotgun marriage during the Cold War, those unique national security issues have long since disappeared. Well after the Ohio energy market was restructured to

be competitive, OVEC companies twice voluntarily extended the contract that now goes until June 2040. Allowing for ongoing subsidies is an example of moral hazard that effectively rewards questionable decisions and signals to other companies that they too can be made whole irrespective of the wisdom of their decisions.

Ultimately, Ohio needs a full restructuring in its energy markets. For far too long, we have been caught in a strange hybrid where regulated investor-owned utilities retain generation capacity through affiliates, and utilities are able to use electric security plans to pile additional generation charges, like the proposed OVEC charge, on top of the market price. This has led to significant long-term problems where the market has not been allowed to be fully functional. Consequently, the promises of restructuring have only been partially fulfilled.

Rather than continuing to move the market toward complete restructuring, the OVEC bailout runs the risk of preventing that policy from moving forward. This would be a missed opportunity to improve competition, lower energy prices for consumers, and strengthen Ohio's economy

Thank you for your time. I look forward to answering any questions from the committee at this time.

---

[1] Orphe Divounguy, PhD, Rea S. Hederman Jr., Joe Nichols, and Lukas Spitzwieser, *The Impact of Renewables Portfolio Standards on the Ohio Economy*, March 3, 2017.

[2] Fiscal Note and Local Impact Statement on House Bill 239 of the 132 General Assembly.

[3] R Street Shorts No. 40, "The Market Advantage: A Q&A with Joe Bowring," June 2017.

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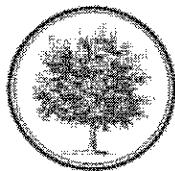
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## **Keeping the Power On, Rain or Shine**

**By Quinn Beeson  
October 4, 2017**

In the wake of several devastating natural disasters has come a greater appreciation for our ability to plug in wherever and whenever. As our focus is on those in need and without power in the wake of the recent hurricanes, as well as their families and countless volunteers, we can't help but also think of our own families and communities here in Ohio. Although not faced with any major natural disasters recently, many Ohioans still worry about keeping the power on, as we face uncertain **price hikes** due to subsidies meant to 'save' several failing coal and **nuclear power plants**.

To ensure low electricity prices, Ohio must create a competitive power market by restructuring the state's utility industry. This can happen if Ohio does two things. First, the major, regulated utilities need to sell their power plants to independent companies so that they don't control the production and distribution of electricity. Second, Ohio needs

to eliminate government subsidies to energy companies and rely on market-based pricing.

A wholly **competitive energy market** does not work when regulated utilities receive government handouts. Healthy competition keeps prices low and encourages innovation, meaning wider services and more choices for Ohioans. In addition, a functioning competitive market makes sure that companies suffer the consequences of their poor decisions, rather than making hardworking Ohioans foot the bill.

Bailing out energy companies that make bad business decisions by making us, the taxpayer, cover their costs would be no different than the government making you eat at a restaurant that had terrible service and was going out of business just to keep it open.

Subsidies are essentially bailouts for failing power plants, paid for by Ohioans rather than the companies themselves. Subsidies for various coal and nuclear power plants will lead to a rise in your utility bills and will increase the burden on struggling families and businesses in Ohio.

The good news is, Ohio doesn't need these subsidies to succeed, just the opposite in fact. Our state is seeing new power plants being built that will generate power from **natural gas, solar, and wind energy**. The outlook for energy production in Ohio is increasingly sunny and politicians need to refrain from tampering with the market and endangering these new technologies.

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When state or federal politicians intervene in the energy market by making tweaks such as requiring subsidies or burdensome regulation, they introduce more uncertainty and risk, which upsets the balance of the energy market, often shifting the costs into the laps of people like you.

There is large demand for power in today's world, and the widespread power outages due to recent natural disasters remind us of that. The best way to provide enough stable, cheap electricity to meet the high demand in Ohio and elsewhere is to keep politics out of the market.

As my colleague **Greg Lawson pointed out in testimony** opposing subsidies and bailouts for utility companies, "As electricity rates have risen across the country, Ohio and other states with restructured wholesale markets have enjoyed cheaper electricity due to a more competitive market. The deregulation of Ohio's market has increased

competition and given consumers more choices and control over meeting their energy needs."

If Ohio is going to continue to grow economically it needs to have cheap and reliable energy for its businesses and its citizens. To achieve this, policymakers need to deregulate the state's energy markets, require regulated utilities to sell power plants so they don't control the production and distribution of electricity, and they need to eliminate government subsidies and bailouts to energy companies which force Ohioans to pay for bad business decisions.

It is time for Ohio's energy companies to compete fairly so we can keep the power on, rain or shine.

*Quinn Beeson is the economic research analyst at The Buckeye Institute.*

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For Immediate Release  
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**Educator Standards Board to Meet October 12-13**

The Educator Standards Board will meet Oct. 12-13 at Quest Business Center, 8405 Pulsar Place, Columbus.

Committee meetings will be held Thursday, Oct. 12 at 5 p.m. The full board will meet Friday, Oct. 13 at 9 a.m., followed by the business meeting at 1 p.m.

[Click here for the agenda.](#)

For general questions about the meeting, contact [Sharon Flinders](#) at (614) 752-8996.

#

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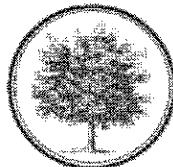
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**FOR IMMEDIATE RELEASE**  
October 10, 2017

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### **New Buckeye Analysis of Ohio's Tax & Spending Policies Offers Guidance to 2020 Commission**

**Columbus, OH** - Today, The Buckeye Institute released its latest policy brief, *Building a Better Future: An Analysis of Ohio's Tax and Spending Policies*, which looks at the tax and spending policies Governor John Kasich and the Ohio General Assembly have adopted since 2013 and their impact on Ohio's economic growth.

Using the macroeconomic dynamic scoring model, developed by economists at Buckeye's **Economic Research Center**, the analysis found that Ohio's tax and spending policies have helped:

- Make Ohio families wealthier;
- Created nearly 7,000 more jobs;
- Raised personal income by \$500 million; and
- Saw Ohio's employment rates and economy outperform most of its regional competitors.

"Contrary to the arguments levied by opponents of tax reform, this analysis shows that the tax reforms implemented by Governor Kasich and the General Assembly have led to economic growth in Ohio," said **Rea S. Hederman Jr.**, executive vice president at The Buckeye Institute and the head of Buckeye's Economic Research Center. "As they continue to study Ohio's tax policies, this analysis can serve as a guide to the 2020 Tax Commission, showing that instead of the failed policy of attempting to tax and spend Ohio to prosperity, further tax reform would keep the state on the path to greater economic growth."

Buckeye's analysis comes on the heels a long-awaited report from the **Ohio 2020 Tax Commission**. The commission was expected to offer guidance on where Ohio tax policy should go next. Unfortunately, the conclusions were limited and essentially called for additional study of Ohio's voluminous list of **tax expenditures** that result in a loss of more than \$9 billion in state revenues each fiscal year.

Hederman continued, "As Buckeye's analysis makes clear, greater spending restraint and further tax reductions is the smart path for Ohio policymakers to take as they continue to reform the state's tax and spending policies."

*Building a Better Future: An Analysis of Ohio's Tax and Spending Policies* was authored by Dr. Orphe Pierre Divounguy, former economist with The Buckeye Institute's Economic Research Center, and Bryce Hill, a former economic research assistant with the Economic Research Center.

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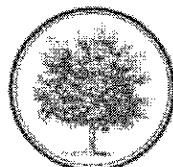
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## Ohio's Budget Should Not be Left to Burn While Washington Fiddles with Healthcare Reform

By Greg R. Lawson  
October 11, 2017

Ohio policymakers should not join those in Washington DC in acting like a modern day Nero who, at least according to myth, fiddled while Rome burned.

The expansion of Medicaid, to largely able-bodied adults, has clearly cost vastly more than what state leaders initially envisioned. As Medicaid spending, the **Pac-Man of the state budget**, continues consuming state resources, U.S. Senator Ron Johnson (R- WI) is demanding answers from the Kasich Administration on why the costs of Medicaid have blown up!

While finding a way to insure more Ohioans is an important policy discussion, the increase in Medicaid spending is impacting Ohio's ability to fund other priorities such as K-12 education, caring for Ohio's aging population, the construction of roads and infrastructure, an effective rehabilitation and correction system, and so much more.

This is one reason why Congress' failure to repeal and replace Obamacare is such a disappointment. Congress' lack of action is impeding Ohio's ability to reform its own Medicaid system, and if not reformed dramatically, will eventually not only be like Pac-Man, it will be like the fire that consumed all of Rome, leaving nothing for those worried about our future economic competitiveness or, most importantly, our children.

However, while members of Congress fiddle away on health care reform, Ohio policymakers can do something to avoid this financial train wreck -- *freeze the expansion!*

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As our executive vice president, Rea Hederman, said of the budget prior to Governor Kasich's unfortunate line item veto:

"Ohio became the first state in the nation to call for a freeze on the Medicaid expansion population, which will focus the program on the truly needy and encourage able-bodied adults to return to work. Medicaid enrollment has exceeded forecasts on both enrollment and costs, and this budget will help make the program sustainable for the future."

Unfortunately, the General Assembly has so far failed to act on Governor Kasich's veto of the expansion freeze, which they can vote to override any time until the end of the legislative session in December of 2018.

According to recent news reports, State Representative **Rob McColley** (R-Napoleon) circulated a memorandum to fellow members of the Ohio House of Representatives highlighting numerous reasons for freezing the Medicaid expansion. Contrary to headlines that say the facts in the memorandum were "**dubious**," it is spot on.

Pushback from the Kasich Administration, and many of the healthcare providers, that stand to continue gaining billions from continuation of this policy, is deeply flawed. For

example, the administration tries to refute the argument that spending on Medicaid is not out of control by asserting that Medicaid has come in under budget.

What the administration doesn't tell us is that Medicaid costs are clearly much higher than initially projected because the administration only expected **447,000** enrollees by 2020! By contrast, the latest actual enrollment numbers from the Ohio Department of Medicaid stands at **708,000**, or 58 percent over what Ohioans were told during the initial debate over expansion.

Further, the McColley memo makes clear that the enhanced federal share for the Medicaid expansion was subject to change. That is still true, just as The Buckeye Institute **said long before the expansion took place**. While it is still difficult to ascertain when the federal government will turn off the spigot, that it will happen is practically guaranteed. Further, the notion that Ohio will, under those circumstances, simply jump out of Medicaid expansion as described by the governor seems fanciful.

Consequently, none of the pushback from the administration should dissuade forward thinking legislators from stepping up the plate - something they already did when passing the budget at the end of June. While Medicaid waivers and other reforms are needed in addition to an expansion freeze, it is better to make a tough decision today than draconian one tomorrow.

We cannot afford to be like Nero and fiddle while Medicaid burns through Ohio's budget and destroys the ability to do anything besides pay for Medicaid. This is not a long-term path on which Ohio should remain. Tragically, it is the path on which we presently, and perilously, tread.

*Greg R. Lawson is the research fellow at The Buckeye Institute.*

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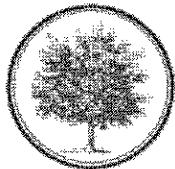
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**FOR IMMEDIATE RELEASE**  
October 12, 2017

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### **Competition Will Save Taxpayer Dollars as Ohio Replacing Aging Water & Sewer Lines**

**Columbus, OH** - Today, The Buckeye Institute released its latest policy brief, *Competition Saves Taxpayer Money on Water and Sewer Line Repair*, looking at the importance of open bidding for water and sewer lines.

"Competition is the bedrock of free markets and forces companies to make better products and offer them for lower prices," said **Daniel J. Dew**, the paper's author and legal fellow at The Buckeye Institute. "When localities, or any government entity, spend taxpayer dollars

they should be required to use those dollars prudently and ensure they get the best product at the best price. In many communities, this is not happening and localities are spending more than is necessary on water and sewer infrastructure. To ensure this doesn't continue and to protect taxpayers from waste, fraud, and abuse, localities should implement an open bid process and consider all water and sewer materials that are deemed safe."

Ohio has aging water and sewer systems that are constantly in need of repair and many need to be replaced. Unfortunately, some localities are limiting competition by requiring the pipes be made of a more expensive material, when it would be in taxpayer's interest to consider all materials that are deemed safe. When governments impose regulations and ordinances that give any business or industry a competitive advantage, they negate the market incentives for industries to lower costs and provide better products.

**A recent study** found that Columbus, Ohio, which does not have an open bid process and mandates that only ductile iron be used for water and sewer replacement, paid nearly \$100,000 more per mile of pipe than nearby Delaware County which does have an open bidding process.

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**CC:** Kevin Schmidt; Jenn Klein  
**Subject:** HB 121 Amendment Language, Buckeye Institute Policy Brief, and Vorys Legal Analysis  
**Attachments:** HB 121 Amendment Language.pdf; Buckeye Institute - Competitive Pipe Policy Brief.pdf; Vorys Competitive Pipe Legal Analysis.pdf

Shawn,

Per our conversation last week, attached is the package of materials we are sending around to committee members and other key legislators and staff.

Included is our proposed amendment language, a Buckeye Institute Policy Brief outlining the benefits of allowing open competition when selecting piping materials for state-funded water and sewer projects, and a Vorys Legal Analysis stating that engineer liability is not impacted by instituting open competition in the selection of piping materials for state-funded water and sewer projects.

Please do not hesitate to let us know if you have any questions.

Thanks,

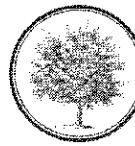
Shawn

Shawn E. Nelson  
Principal  
Nelson Government Strategies  
137 E. State St.  
Columbus, OH 43215  
(740) 403-9866

**Topic:** Reasonable piping materials

\_\_\_\_\_ moved to amend as follows:

- 1       Delete lines 2 and 3 of the title
- 2       In line 4 of the title, delete "specifications" and insert  
3       "forbid a public authority from prohibiting the use of  
4       reasonable piping materials"
- 5       Delete lines 14 through 20 and insert:  
6       "(B) No public authority shall prohibit the use of  
7       reasonable piping material, based on sound engineering  
8       principles, in the construction, development, maintenance,  
9       rebuilding, or improvement of a water or waste water project  
10      that is funded in whole or in part with state funds."
- 11      The motion was \_\_\_\_\_ agreed to.



# THE BUCKEYE INSTITUTE

## The Buckeye Institute Policy Brief

### Competition Saves Taxpayer Money on Water and Sewer Line Repair

Daniel J. Dew, Legal Fellow

#### Introduction

Last year, the toxic, undrinkable water in Flint, Michigan and Sebring, Ohio made national headlines and focused needed attention on the country's aging water and sewer lines.<sup>1</sup> Every mile of America's 1.2 million miles of water supply mains will suffer a break roughly every six years, and given the age and disrepair of much of this infrastructure many state and local governments will need to fix and replace miles of water lines—and soon.<sup>2</sup>

Taxpayers, of course, foot the bill for infrastructure repair, and replacing water and sewer systems is extraordinarily expensive. Regrettably, local ordinances often limit competition on public infrastructure construction and repair contracts, which then spikes the already high costs even further.<sup>3</sup> An ordinance in Columbus, Ohio, for example, requires all water pipelines to be built with a more expensive material. Nearby Delaware County, Ohio, on the other hand, has no such requirement, preferring an open bid process that creates competition among various material providers. By limiting competition and effectively mandating a self-imposed monopoly, Columbus taxpayers paid nearly \$100,000 more per mile of pipe than their neighbors in Delaware County.<sup>4</sup>

Ohio's General Assembly may soon prohibit Ohio localities from imposing monopolistic requirements when spending state dollars on projects. If local politicians want to require spending more of their local revenues for inferior products or workmanship, then they can face the local voters at the next election. But when local governments spend state dollars on local projects the state can and should require localities to spend state funds efficiently and wisely. The fiscally prudent policy under consideration in the Statehouse would require county engineers to consider any bid that uses safe and structurally sound materials when state funds are spent on local projects.

<sup>1</sup> Lucy Westcott, "With Lead in the Water, Could Sebring, Ohio Become the Next Flint?", *Newsweek*, Jan. 27, 2016.

<sup>2</sup> Charles Fishman, "13 Things You Probably Don't Know About the US Water System," *National Geographic*, Aug. 12, 2014.

<sup>3</sup> Bonner R. Cohen, *Seizing the Initiative: How States Can Help Themselves in Rehabilitating Underground Water Infrastructure*, American Legislator, April 2, 2015.

<sup>4</sup> BCC Research, *Comparison of Water Main Pipeline Installation Lengths and Costs in Ohio*, Feb. 25, 2016.

### Competition Protects Taxpayers

Free competitive markets raise quality and lower prices. When governments impose regulations and ordinances that give any business or industry a competitive advantage, they negate the market incentives for industries to lower costs and provide better products.

Competitive bidding for public projects functions no differently. Businesses should make their best proposal for the work required, and the government should select the bid providing the best value for the taxpayers. The best value may not always be the cheapest bid, but taxpayers can make government officials explain the selection and justify the cost. Indeed, Ohio recognizes the value of competitive bids and state law requires government contracts be open to competitive bidding in most situations.<sup>5</sup> As the Ohio Supreme Court has explained, competitive bids on government projects “protect the taxpayer, prevent excessive costs and corrupt practices, and provide open and honest competition in bidding for public contracts.”<sup>6</sup>

Monopolistic ordinances and requirements have the opposite effect. When, for instance, localities are forced to use union labor on public projects, taxpayers pay the price. Locally mandated Project Labor Agreements (PLA) often stipulate that any contractor whose bid is accepted agrees to follow union-dictated practices, which forecloses competition from non-union shops and thereby increases construction costs 12-18 percent.<sup>7</sup> Similar competition-killing policies plague the nation’s water pipeline projects. Some local governments have limited market competition for water and sewer line materials. As noted, Columbus, Ohio, for example, paid \$97,680 more per mile of pipe than Delaware County by requiring all pipe to be made of a more expensive material rather than allow competitive bids using other materials.<sup>8</sup>

By closing the door on open competition, municipalities risk over-paying for products and labor both now and in the future—just as more and more of the nation’s water pipelines are in critical need of repair. Communities may soon face the unwelcome, but avoidable choice of paying too much for waterline repairs or finding their tap water undrinkable.

### Let the Professionals Do Their Jobs

Competitive bids on public infrastructure and waterline projects help ensure that local officials are empowered to do their jobs for the communities they serve. County engineers, for example, should be authorized to decide which materials and which designs are best for any given community project. But local ordinances that limit competition or require certain materials on certain projects artificially restrict the options available to the professionals. Instead of allowing the professional engineers to design and engineer as necessary, professional politicians—pretending to know better than the experts—too often take it upon themselves to foreclose construction and design options through local ordinances and regulations that may or may not be in the best interest of the project or community.

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<sup>5</sup> OHIO REV. CODE ANN. § 307.86.

<sup>6</sup> *Cementech v. City of Fairlawn*, 109 Ohio St. 3d 475, at 477.

<sup>7</sup> Tom Lampman, *One Step to Restore Competition to Public Works Bidding*, The Buckeye Institute, April 21, 2015.

<sup>8</sup> BCC Research, *Comparison of Water Main Pipeline Installation Lengths and Costs in Ohio*, Feb. 25, 2016.

In the waterline repair context, some opponents of competitive bidding worry that open bids may make county engineers liable for not selecting the lowest bidder or for any failure resulting from their selections of non-traditional pipe materials. Both concerns are misplaced.

Engineers may worry that absent a restrictive ordinance, the county may be required to choose the lowest bid. But that is not the case. Ohio law instructs that contracts be awarded to the “lowest and *best* bidder.”<sup>9</sup> Thus, if, in the engineer’s professional opinion, the lowest bid is not also the best bid, the engineer may legally select the better product or service even at the higher price.<sup>10</sup> Furthermore, should an engineer violate a competitive bid statute, the Ohio Supreme Court has held that “the rejected bidder cannot recover its lost profits as damages”<sup>11</sup> and the engineer may not be held personally liable. Indeed, county engineers enjoy immunity from suit when replacing or repairing waterlines. In 2012, the Ohio Supreme Court held that construction or replacement of a sewer and water system is a government function for which political subdivisions—such as county engineers—may not be sued.<sup>12</sup>

Contrary to the concerns of some anti-competition advocates, county engineers and other professionals should be empowered by state and local authorities to do their jobs and perform their roles in a free and open market, free from political influence that would artificially limit engineering and construction options available to the professionals.

#### **Helping Spend State Tax Dollars Wisely**

Elected officials have a duty to spend tax revenues wisely and efficiently. When the state sends its tax dollars to local governments for local projects, the state legislature should require common sense practices to keep state taxpayers from subsidizing local government waste. One such practice, for example, would require local officials to consider all bids proposing safe materials for any project paid for with state funds. Fiscal responsibility demands it.

Some may fear that such a requirement would violate local home rule, but Ohio law already requires competitive bidding on any project more than \$50,000.<sup>13</sup> Thus, requiring consideration of all safe materials on projects using state dollars is actually more consistent with home rule authority than the current competitive bidding statute. Under the proposed policy, local governments could still limit materials for projects that only spend local tax revenues.

<sup>9</sup> OHIO REV. CODE ANN. § 735.05 (Emphasis added).

<sup>10</sup> *Danis Clarkco Landfill Co. v. Clark County Solid Waste Management Dist.*, 73 Ohio St. 3d 590, at 603.

<sup>11</sup> *Cementech v. City of Fairlawn*, at 477.

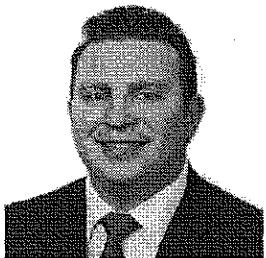
<sup>12</sup> *Coleman v. Portage County Eng’r*, 133 Ohio St. 3d 28, at 33-36.

<sup>13</sup> OHIO REV. CODE ANN. § 307.86.

### **Conclusion**

As communities and local governments take steps to address their aging water and sewer lines, they would do well to learn from the painful lessons of Flint, Michigan and Sebring, Ohio. And as they look to repair and replace expensive infrastructure, local leaders should avoid ordinances and regulations that needlessly limit competition, flexibility, and the know-how of the trained professionals tasked with fixing the problems. Instead, localities should consider all materials deemed safe for water supply lines, and should encourage cost-saving competition among suppliers and contractors as they safeguard taxpayer dollars against waste, fraud, and abuse.

### **About the Author**



Daniel J. Dew is the legal fellow at The Buckeye Institute's Legal Center. In this capacity, Dew focuses on legal policies that promote freedom and the public good.

An expert on criminal justice reform, Dew has worked on policies that increase Ohioans' safety, makes the criminal justice system fairer, and saves taxpayer dollars. Dew was a leading voice in reforming Ohio's civil asset forfeiture policies and worked closely with Ohio's Criminal Justice Recodification Committee on developing proposals to reform the state's criminal code.

Prior to his position at Buckeye, Dew was a visiting legal fellow at the Heritage Foundation's Edwin Meese III Center for Legal and Judicial Studies and an associate attorney at Ford, Gold, Kovoor & Simon. He also represented energy companies in contract negotiations.

Dew earned his law degree from Cleveland Marshall College of Law, and his undergraduate degree from Utah State University.



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*Competition Saves Taxpayer Money on Water and Sewer Line Repair*

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August 28, 2017

Ms. Jenn Klein  
President  
Ohio Chemistry Technology Council (OCTC)  
88 East Broad Street, Suite 1490  
Columbus, OH 43215

Re: H.B. 121, Proposed Ohio Revised Code § 153.75

Dear Ms. Klein:

**Executive Summary**

The above-captioned proposed legislation should have no impact on the potential liability of engineers in Ohio and may promote greater competition consistent with Ohio's public bidding statutes.

**Factual Background**

There is pending in the Ohio General Assembly proposed legislation with respect to Chapter 153 of the Ohio Revised Code (the "Proposed Legislation") that would prohibit local governments in Ohio from excluding piping materials for public water or wastewater projects where the materials have been approved by a Professional Engineer (a "P.E."). The Proposed Legislation reads, in pertinent part:

A public authority shall not prohibit a piping material that is  
deemed appropriate by the professional engineer from  
consideration in the construction, development, maintenance,  
rebuilding, or improvement of a water or waste water project that  
is funded in whole or in part with state funds.

On behalf of the Ohio Chemistry Technology Council (OCTC), we have been asked for an opinion on whether the Proposed Legislation will have an impact on the potential civil liability of a P.E. in Ohio, and secondarily on the potential liability of local governments in Ohio, and whether it will create new channels of bid protests. The plastic piping materials produced by OCTC member companies are tested and certified according to recognized national standards



Legal Counsel

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Page 2

including American Society of Testing Materials (“ASTM”) standards, American Water Works Association (“AWWA”) standards and National Science Foundation (“NSF”) standards.

### Summary

The Proposed Legislation should have no impact on the potential liability of a P.E. in Ohio. Under both existing law and the Proposed Legislation, a P.E. is not liable for specifying a piping material unless the P.E. has prior notice of the material’s unsuitability for use in the specific application. The common avenues by which a P.E. typically specifies pipe materials – with prior approval from the authority having jurisdiction or with documentation and certification from the pipe manufacturer – continue to protect a P.E. from liability under the Proposed Legislation. Thus, a P.E. continues to not be liable where the pipe materials have been approved for use by the authority having jurisdiction unless the P.E. has notice that the material is not appropriate due to the specific conditions of the use. Likewise, a P.E. continues to not be liable for relying on the pipe manufacturer’s documentation and certification, where the authority having jurisdiction has not previously approved the pipe material, unless the P.E. has prior notice of the material’s unsuitability.

Although the Proposed Legislation creates a new statutory basis under which liability of a government entity may be found where the government fails to act in compliance with the new legislation, it should not increase channels of bid protest available to disappointed bidders, and it should not increase the local government’s potential liability. Instead, the Proposed Legislation should decrease the local government’s potential liability and should promote greater competition, which is the objective of Ohio’s competitive bidding statutes.

### Engineer Liability

The fundamental duty of care for an engineer in Ohio is defined by the Restatement as that “normally possessed by members of that profession”:

Unless he represents that he has greater or less skill or knowledge, one who undertakes to render services in the practice of a profession or trade is required to exercise the skill and knowledge normally possessed by members of that profession or trade in good standing in similar communities.

Restatement 2d Torts § 299A. In defining a “profession or trade,” the restatement commentary specifically includes “engineers”:

b. Profession or trade. This Section ... applies to any person who undertakes to render services to another in the practice of a profession, such as that of ... engineer. .... This Section states the



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minimum skill and knowledge which the actor undertakes to exercise, and therefore to have. If he has in fact greater skill than that common to the profession or trade, he is required to exercise that skill ....

Restatement 2d Torts § 299A. Courts in Ohio have applied this framework to both architects and engineers. Crowninshield/Old Town Community Urban Redevelopment Corp. v. Campeon Roofing and Waterproofing, Inc., Nos. C-940731, C-940748, 1996 WL 181374, \*4 (Ohio App. 1<sup>st</sup> Dist. April 17, 1996) (architects); Cincinnati Gas & Electric Co. v. General Electric Co., 656 F. Supp. 49, 62 (S.D. Ohio 1986) (engineers).

“Malpractice” standards do not apply to design professionals in Ohio. Hocking Conservancy District v. Dodson Lindblom Assoc., Inc., 62 Ohio St. 2d 195 (1980). Likewise, under Ohio law, the design professional is not subject to “strict liability” for systems that fail unless the design professional has specifically agreed to such liability. “The [design professional’s] undertaking, however, in the absence of a special agreement, does not imply or guarantee a perfect plan or satisfactory result, but he is liable only for failure to exercise *reasonable* care and skill.” Crowninshield (architects); City of Cincinnati v. Stanley Consultants, Inc., No. C-830815, 1984 WL 6597, \*4 (Ohio App. 1<sup>st</sup> Dist. November 7, 1984) (engineers). Instead, basic negligence principles apply.

Compliance with published codes, standards and regulations helps shield a P.E. from liability unless the P.E. has notice that the code, standard or regulation is inadequate for the specific situation.

Where a statute ... or regulation is found to define a standard of conduct for the purpose of negligence actions, ... the standard ... is normally a minimum standard .... This ... minimum does not prevent a finding that the reasonable [person] would have taken additional precautions.

Restatement 2d Torts § 288C, comment a.

As in any garden-variety negligence action, where the P.E. *does not have notice* that injury may result from a design, the P.E. cannot be held liable. Delta Fuels, Inc. v. DLZ Ohio, Inc., 2016-Ohio-970, ¶¶ 80-84, 87 (Ohio App. 6<sup>th</sup> Dist.).

#### **Relevant Standards**

As relevant here, water and waste water piping materials are not specified with particularity under the “10-State Standards,” the standards most widely adopted by local



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governments for water and waste water systems in Ohio and the Great Lakes region. Instead, using waste water systems as an example:

Any generally accepted material for sewers may be given consideration, but the material selected should be adapted to local conditions, such as: character of industrial wastes; possibility of septicity; soil characteristics; exceptionally heavy external loadings, abrasion, corrosion, or similar problems.

Recommended Standards for Wastewater Facilities, 2014 Ed., § 33.7. The 10-State Standards recognize ASTM standards as establishing acceptable criteria for plastic pipe. Id.

As noted above, the piping materials produced by OCTC member companies and their customers are tested and certified in accordance with these nationally recognized standards. Where ASTM standards have not yet been developed, the 10-State Standards direct the P.E. to the pipe manufacturer for documentation and certification of the pipe's suitability:

For new pipe materials for which ASTM standards have not been established, the design engineer shall provide complete pipe specifications and installation specifications developed on the basis of criteria adequately documented and certified in writing by the pipe manufacturer to be satisfactory for the specific detailed plans.

Recommended Standards for Wastewater Facilities, 2014 Ed., § 33.7.<sup>1</sup>

Thus, all the avenues by which an Ohio P.E. may specify piping material (i.e., from a list approved by the local authority, reliance on national standards, or reliance on manufacturer's specifications and certifications) shield the P.E. from liability, with or without the Proposed Legislation. The Proposed Legislation does nothing to increase the P.E.'s potential liability or undermine the P.E.'s defenses against liability.

---

<sup>1</sup> Note that the Ohio EPA maintains a list of pre-approved pipe specifications for wastewater systems that specifies applicable ASTM and AWWA standards. See <http://www.epa.ohio.gov/portals/35/pti/OhioEPAPipeSpecList.pdf>. Likewise the City of Columbus has adopted standard construction and material specifications for plastic pipe used in water and wastewater systems, and maintains an "Approved Materials List." See <https://www.columbus.gov/WorkArea/Linkit.aspx?LinkIdentifier=id&ItemID=48140>. This list, again, relies primarily on specified ASTM standards. 2012 City of Columbus Construction and Material Specifications ("CCMS") at § 720.01 et. seq. For materials not on Columbus' list, "complete shop drawing submittals are required in accordance with the procedures detailed in the CCMS." See <https://www.columbus.gov/WorkArea/DownloadAsset.aspx?id=2147489294>. Those procedures rely on testing in accordance with "applicable ASTM and/or AASHTO Specifications." CCMS § 720.04



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August 28, 2017  
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#### Potential Liability of Government Entity

Government entities in Ohio are generally required to award contracts for public improvements based on either the “lowest responsive and responsible” bidder or the “lowest and best” bidder. O.R.C. §§153.52, 307.86, 307.90. A bidder is responsive if the bidder’s proposal responds to bid specifications in all material respects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage. O.R.C. §9.312(A). For the irregularity or deviation to be substantial enough to not be responsive, it must affect the amount of the bid and must give the bidder an advantage or benefit not allowed to other bidders. Wilson Bennett, Inc. v. Greater Cleveland Regional Transit Auth., 67 Ohio App.3d 812, 819 (Ohio App. 8<sup>th</sup> Dist. 1990).

If a court is asked to review a government’s decision not to award a public works contract to the lowest bidder, the court can only overturn the decision if it finds that the government has abused its discretion. Cedar Bay Construction, Inc. v. City of Fremont, 50 Ohio St.3d 19 (1988). Abuse of discretion “connotes more than an error of judgment; it connotes an unreasonable, unconscionable, or arbitrary decision.” Id. The general rule is that “public officers, administrative officers, and public boards, within the limits of the jurisdiction conferred by law, will be presumed to have performed their duties and not to have acted illegally but regularly and in a lawful matter. All legal intemperances are in favor of the administrative action.” Id.; see also State ex rel. Shafer Volvo v. Turnpike Commission, 159 Ohio St. 581, 590 (1953). It is thus very difficult to overturn a government’s decision in a bid award.

Plans and specifications for public improvements must be clear and unambiguous so that all bidders are on equal footing when submitting their bids. Plans and specifications satisfy competitive bidding requirements “if they convey to the bidder sufficient knowledge upon which to base a definite bid.” See Ampt v. City of Cincinnati, 6 Ohio N.P. 208, 214 (C.P. 1899). If plans and specifications are not clear and unambiguous, any resulting contract may be declared illegal. See, e.g., State ex rel. Hoeffler v. Griswold, 35 Ohio App. 354 (Ohio App. 10<sup>th</sup> Dist. 1930) (holding that the state must “apprise prospective contractors of that which they might reasonably be expected to do”); 1997 Op. Att’y Gen. No. 97-006, at \*6 (“In order to put all bidders on equal footing, it is essential that the specifications on which bids are to be submitted be sufficient to inform all bidders as to the matter for which, and the bases upon which, the contract will be awarded.”).

Nonetheless, asking for alternatives in bids is acceptable so long as “the specifications [are] accurate and complete as to each alternative.” Rewco, Inc. v. City of Cleveland, 89 Ohio Law Abs. 248 (C.P. 1961). Moreover, a public owner “must use reasonable efforts to secure competitive bidding which must be open everyone” and, therefore, “should make an effort to select types or categories of specifications that will encourage submission of bids from a large pool of potential bidders.” 1997 Op. Att’y Gen. No. 97-006, at \*6, 8.



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The Proposed Legislation does nothing to give advantage or benefit to one bidder over another and instead encourages submission of bids from a large pool of potential bidders, thereby creating no new channels of bid protests. Instead, by eliminating the local government's ability to prohibit alternative materials that have been deemed acceptable to the engineer, the Proposed Legislation may, in fact, decrease the potential liability of the local government entity by removing government-imposed impediments on bids.

Finally, under both existing Ohio law and the Proposed Legislation, a local government is generally required to suspend and rebid projects subject to a valid bid dispute, and if it fails to do so, it may be liable for the disappointed bidder's cost of preparing its bid. Specifically, when a rejected bidder establishes that a government entity violated competitive-bidding laws in awarding a public-improvement contract, that bidder may recover reasonable bid-preparation costs as damages if that bidder promptly sought, but was denied, injunctive relief and it is later determined that the bidder was wrongfully rejected and injunctive relief is no longer available. Meccon, Inc. v. Univ. of Akron, 126 Ohio St.3d 231, 2010-Ohio-3297 (syllabus).

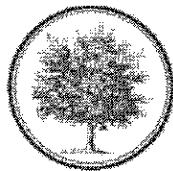
The opinions expressed herein assume the proper application by a judicial or administrative body of (a) the principles of statutory interpretation and (b) precedential Ohio case law and Ohio Attorney General opinions. They are based upon the information provided, the Proposed Legislation as currently drafted and research and analysis as of the date of this letter, and are subject to change if new or additional information is provided, the Proposed Legislation changes or if there are changes in Ohio common law or statutory law.

Very truly yours,

Allen L. Rutz

ALR/csp

**From:** The Buckeye Institute  
**Sent:** Tuesday, October 17, 2017 8:31 AM  
**To:** Kasych, Shawn  
**Subject:** The Buckeye Institute: Reforming Ohio Tax System is Needed to Attract Businesses and Grow the Economy



## THE BUCKEYE INSTITUTE

Contact: Lisa Gates, Vice President of Comms  
(614) 224-3255 or [Lisa@BuckeyeInstitute.org](mailto:Lisa@BuckeyeInstitute.org)

**FOR IMMEDIATE RELEASE**  
October 17, 2017

### **The Buckeye Institute: Reforming Ohio Tax System is Needed to Attract Businesses and Grow the Economy**

**Columbus, OH** -- Rea S. Hederman Jr., executive vice president at **The Buckeye Institute**, commented on the Tax Foundation's newly released *2018 State Business Tax Climate Index*.

"Today, the **Tax Foundation** released the *2018 State Business Tax Climate Index*, which ranks all 50 states by how well they structure their tax system. Unsurprisingly, Ohio ranks near the bottom of the barrel at 45 out of 50 -- the same ranking we have had for the past two years. As Ohio stands still, other states are moving forward on tax reform which is a contributing factor to our **uneven labor market**.

"There are two main strategies that Ohio should employ to attract business and shake off the low ranking. First, Ohio needs to get rid of business tax expenditures. These hurt businesses and job growth, and discourage investment. Second, Ohio should focus on broadening the tax base and lowering tax rates. Implementing these two strategies, and others we have outlined in our *Tax Reform Principles for Ohio*, will improve our tax climate and will make Ohio an economic engine in the Midwest."

# # #

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The Buckeye Institute, 88 East Broad Street,  
Suite 1120, Columbus, OH 43215

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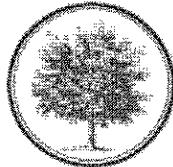
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Sent by [info@buckeyeinstitute.org](mailto:info@buckeyeinstitute.org)

**From:** The Buckeye Institute  
**Sent:** Tuesday, October 17, 2017 2:53 PM  
**To:** Kasych, Shawn  
**Subject:** The Buckeye Institute: Time for the Ohio General Assembly to Get Serious about Closing Tax Loopholes

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## THE BUCKEYE INSTITUTE

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Contact: Lisa Gates, Vice President of Comms  
(614) 224-3255 or [Lisa@BuckeyeInstitute.org](mailto:Lisa@BuckeyeInstitute.org)

**FOR IMMEDIATE RELEASE**  
October 17, 2017

= A

### **The Buckeye Institute: Time for the Ohio General Assembly to Get Serious about Closing Tax Loopholes**

**Columbus, OH - The Buckeye Institute** issued the following statement on the inaugural meeting of Ohio's Tax Expenditure Review Committee.

"Today's meeting of Ohio's Tax Expenditure Review Committee is an important step in closing down the voluminous list of tax loopholes that riddle Ohio's tax code," said **Greg R. Lawson**, a research fellow at The Buckeye Institute. "As we outlined in our *Tax Reform Principles for Ohio*, every loophole creates an unfair special interest tax break that must be

paid for by fewer taxpayers, and once ensconced in statute, they become entrenched and immune to substantial scrutiny."

Lawson continued, "When Buckeye first called for the creation of the review committee, we, along with the Center for Community Solutions and the Greater Ohio Policy Center, identified **20 loopholes** that should have been closed, accounting for \$300 million in lost revenue. That figure pales in comparison to the estimated \$18.6 billion in lost revenue from the 129 loopholes outlined in the Office of Budget and Management's (OBM) fiscal year **2018-19 Tax Expenditure Report.**"

"While the recent reforms in Ohio's tax policy have resulted in new jobs and improved personal income, more needs to be done. It is now time for Ohio's General Assembly to get serious about shutting down tax loopholes and it is critical that they create a tax climate that is positive for job creation and helps hard-working Ohioans," Lawson concluded.

# # #

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The Buckeye Institute, 88 East Broad Street,  
Suite 1120, Columbus, OH 43215

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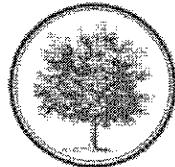
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### **Buckeye's Rea Hederman: Ohio Labor Market Bounces Back from Summer Doldrums**

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**Columbus, OH** -- Rea S. Hederman Jr., executive vice president at **The Buckeye Institute**, commented on newly released unemployment data from the **Ohio Department of Job and Family Services**.

"In September, the Ohio labor market bounced back from the summer doldrums, with the unemployment rate falling a tenth to 5.3 percent from 5.4, and the private sector created

10,500 new job opportunities. After a somber August labor report, the solid numbers from September are a welcome improvement with all indicators in positive territory, particularly as revised August numbers increased total employment by 1,000. In addition, the labor force participation rate remained constant, which means that new people entering the labor market and those previously unemployed found jobs.

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"However, the slow, steady Ohio growth is not keeping pace with the national numbers, as the gap between Ohio's unemployment and the national average (4.2 percent) has increased in the past year.

"Private sector job growth was led by strong gains in educational services (3,800), retail trade (3,300), and manufacturing (2,600). The sharpest decline was in financial activities (-2,400). The government sector neither added nor lost jobs as gains in state government (6,900) and federal government (300) were offset by losses in the local government sector (-7,200).

"Since September of 2016, Ohio's unemployment rate has increased slightly as more Ohioans entered the labor market, and, while the economy has experienced steady growth with 64,700 private sector jobs created in the last twelve months, job creation has not kept pace with these new workers. To reverse this trend, Ohio policymakers must continue on their course of **wisely resisting tax increases** to make up for a budget shortfall, and they must consider tax reform that eliminates **special interest deductions and loopholes** to lower tax rates."

# # #

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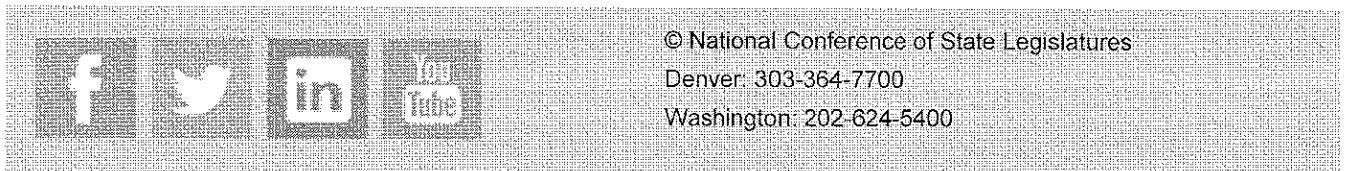
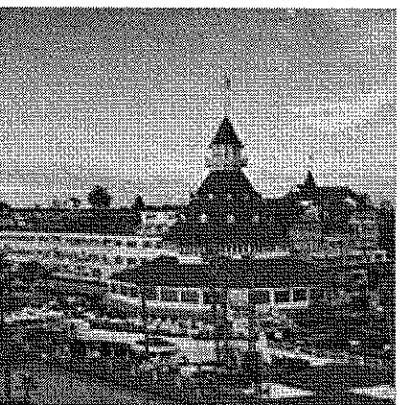
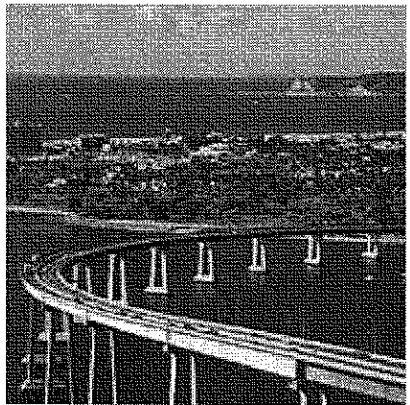
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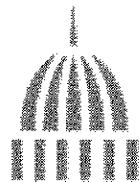
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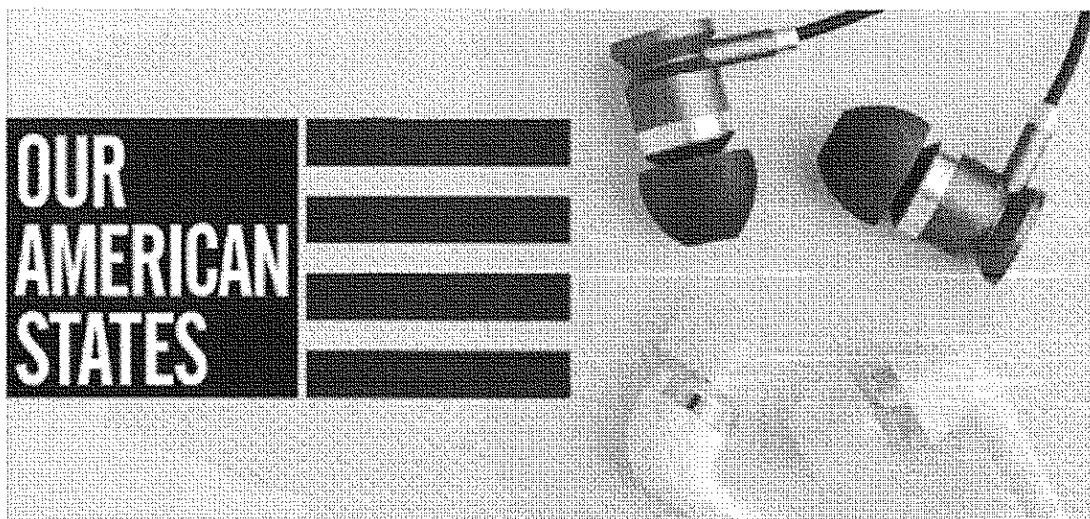
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## U.S. Supreme Court Cases to Watch This Term



Five cases that the U.S. Supreme Court has put on its docket for the current term could have a significant impact on states. State legislatures are waiting for decisions on these cases, and could

**Don't miss these past episodes of Our American States:**

cause them to change state laws depending on how the court rules. And a potentially explosive sixth case is waiting in the wings.

Our guests this episode are **Lisa Soronen**, executive director of the State and Local Legal Center, and **Susan Frederick**, senior federal affairs counsel at NCSL.

The cases we examine are:

- *Gill v. Whitford*, a Wisconsin case in which the court may decide whether partisan gerrymandering is unconstitutional.
- *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, looks at whether Colorado's public accommodations law violates a cake artist's First Amendment free speech and free exercise rights.
- *Janus v. American Federation of State, County and Municipal Employees* the court will address whether unions can collect dues from nonmembers.
- *Husted v. A. Philip Randolph Institute* looks at Ohio's procedures to remove voters from their rolls after four years of inactivity.
- *Christie v. National Collegiate Athletic Association* may decide how far Congress can regulate states and localities in the absence of comprehensive federal regulation.

And, as a bonus, we'll discuss what could happen if the court accepts a South Dakota case that could overturn the 1992 *Quill Corp v North Dakota*, which said states could not force business to collect sales or use taxes unless it has a physical presence in a state.

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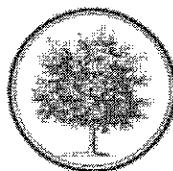
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Everywhere we go-oh, people want to know-oh....

So we tell them.... we at your Buckeye Institute are your #1 best resource for sound policy research, but unfortunately we do not advocate for or against individual candidates or ballot issues--no matter how many of them we suspect will have good or bad impact if they prevail (we follow politics, yes we do, we are not entirely nerdy wonks, how 'bout you?).

While we definitely evaluate the policies contained in the ballot issues, it is up to you to take our research and study the issues before determining which way to vote.

Oh, sure, we have opinions (adamant well-informed ones, too!), but our job is to serve as your first resource for objective independent policy research.

As a consolation prize, hot off the press is our just-released blog that Buckeye's national healthcare expert Rea S. Hederman Jr. posted today describing the policy implications involved with Issue 2 that Ohioans are considering on their ballots Tuesday, Nov. 7.

To help clear your conscience and make an informed decision, give the blog a close read, mark your calendars for November 7, and make your way to the polls next Tuesday to vote whichever way you think is right.

May the best candidates and policies win!

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## **Getting Less for More: Ohio's Proposed Drug Price Control Policy (a.k.a. "Issue 2")**

**By Rea S. Hederman Jr.**  
**October 30, 2017**

Next Tuesday, Ohioans will decide whether to enact a policy that would create price controls for pharmaceuticals that are paid for by the state of Ohio. Advocates claim that these price controls can save the state of Ohio money. Opponents argue that these savings are dubious and price controls will create a host of other problems.

Price controls, whether for drugs, housing, gasoline or blueberries are bad policies. They distort the marketplace and create shortages. If price controls worked, socialist governments throughout history would not have seen their economies disintegrate and the supply of goods disappear.

Regrettably, price controls for drugs is not a new idea. Foreign countries around the world have imposed price controls at the cost of denying **citizens access to either new drugs** or entire classes of drugs. In the United States, the federal government has a system of price controls on drugs available to patients in the Veterans Affairs (VA) medical system. Although some folks might like us to believe that system can be easily transferred to Ohio, it is not that simple.

Beyond the negative impact of price controls that are known to economists around the world, there are other reasons this proposal is bad policy for Ohioans and nearly impossible to implement.

### **VA Patients Have Access to Fewer Drugs**

The consequence of VA price controls is that its patients **have less access to drugs compared to Medicare beneficiaries**. This is particularly true for access to generic drugs. Almost 100 percent of Part D drugs have a generic equivalent while only half of VA drugs have a generic equivalent. If Ohio adopts price controls, many Ohioans will pay

more because they will lose access to their cheaper generics and will be forced to buy the more expensive "name brand" drugs instead.

### **Ohio Doesn't Oversee its Own Health Care System**

The VA has its own network of hospitals and health care providers, and since it controls its own network, the VA knows which prices it negotiates throughout the system. In Ohio, we have many hospitals, health care systems, and health care providers. And people on a state-funded plan (anyone for whom the state helps pay for health care--from Medicaid recipients to state employees who receive health care through their employer, which is the state of Ohio) see the same doctors and go to the same hospitals as those who pay for their own plans and those whose plans are paid for by private employers.

To complicate this situation further, the VA does not make its entire list of negotiated prices readily available, so frequently Ohio would have no idea what price it should be paying for drugs. That means you could be delayed in getting life-saving medication due to bureaucratic slowness in Washington, D.C., because -- under the proposal -- the state is not allowed to pay more than the VA price.

### **Ohio Would Lose Savings it is Already Getting Through its Negotiations**

When Ohio negotiates its drug prices, it often receives rebates from drug manufacturers. For example, Ohio pays a pharmacy \$1 for an antibiotic pill, but the manufacturer of the pill gives the state a large rebate so the real cost to the state is 80 cents a pill. Like a grocery store manufacturer's coupon, the rebate goes to the purchaser, the state of Ohio, and not the retail seller -- in this case the pharmacist or grocery store.

Under the current proposal, Ohio would pay pharmacists the VA price for the pill with no negotiation. If the pharmacist is no longer receiving \$1 a pill, but is receiving 75 or 80 cents a pill, then pharmacists may be losing money on some drugs. And if pharmacists lose money on a certain drug, they may have to stop selling it in order to keep their businesses open. All this for a dubious amount in "savings."

### **Many Ohioans Will Pay More for Necessary Medication**

If you don't work for the state and are one of the many Ohioans who has insurance through a private employer, price controls could force you to pay more for the medications you need.

Ohioans on private plans belong to large purchasing groups through health insurers who bargain for cheaper prices through bulk drug sales. This makes drugs **more affordable** for all members of the buying group. If this proposal (Issue 2) is adopted, Ohioans, who receive health care through state plans, will no longer be allowed to bargain on any drug

covered by the VA. That means the purchasing group will be smaller, and those remaining will have less bargaining power. That will result in higher prices for other members in the group.

While price controls seem alluring as an easy way to create savings, whenever they have been tried, they result in shortages, reduced access, and higher prices for some products. This proposed price control policy will be no different and savings to the state will come at the cost of availability of necessary drugs and higher costs to Ohioans.

*Rea S. Hederman Jr. is executive vice president at The Buckeye Institute and is an expert in health care policy.*

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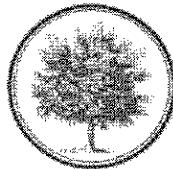
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### **Buckeye's Greg Lawson: Controlling Board Vote on Medicaid Spending Highlights Need for Greater Reform**

**Columbus, OH -- The Buckeye Institute's** Greg R. Lawson issued the following statement on today's vote by the Controlling Board to **approve \$264 million in Medicaid spending**.

"Today's Controlling Board vote to authorize the **Department of Medicaid** to spend an additional \$264 million in taxpayer dollars highlights the need for far greater reforms to a program long known as the 'Pac-Man' of the state budget.

"Before any further dollars are appropriated, the General Assembly should make certain that the Kasich Administration will seek waivers that add meaningful personal responsibility requirements for those in the expansion population, **including the Healthy Ohio waiver**, which would empower Medicaid recipients to obtain better care, put Ohio's Medicaid program on sounder financial footing, and ensure that needy Medicaid enrollees have to access to good medical care."

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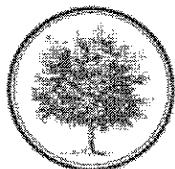
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### **The Buckeye Institute: Competition is Critical When Replacing Aging Water & Sewer Lines**

**Columbus, OH** -- Following on The Buckeye Institute's policy brief, *Competition Saves Taxpayer Money on Water and Sewer Line Repair*, Buckeye's Greg R. Lawson submitted testimony (see full testimony below) to the Ohio House State and Local Government Committee on the policies in House Bill 121.

In his testimony, Lawson highlighted the issue of water and sewer infrastructure as one that is important "not only for taxpayers' pocketbooks but also for their health and wellbeing."

Lawson went on to note that there are a number of considerations engineers and local officials must take into account when determining the best materials to use for water and sewer pipes saying, "Many factors, such as soil conditions and load, influence the engineering specifications for such a project. Design engineers are qualified experts who must closely study the particular conditions of the project and take these factors into account. They are therefore in the best position to determine what material or materials are suitable."

Of critical importance is to ensure that taxpayers get the best value and the best product for their infrastructure projects with Lawson stating, "Governments should embrace competitive bidding...[and] refrain from imposing regulations that negate the market incentives for industries to lower costs and provide better products."

# # #

**Interested Party Testimony Submitted to the  
Ohio House State and Local Government Committee on House Bill 121**

**Greg R. Lawson, Research Fellow  
The Buckeye Institute for Public Policy Solutions  
November 1, 2017**

Chair Anielski, Vice Chair Hambley, Ranking Member Holmes, and members of the committee, thank you for the opportunity to testify today. My name is Greg Lawson and I am the research fellow at **The Buckeye Institute**, a think tank that advocates free-market policies for Ohio.

The policy under consideration addresses the funding and regulation of public water and wastewater projects. This is an important issue not only for taxpayers' pocketbooks but also for their health and wellbeing, and one we looked at in our recent policy brief, *Competition Saves Taxpayer Money on Water and Sewer Line Repair*.

Many factors, such as soil conditions and load, influence the engineering specifications for such a project. Design engineers are qualified experts who must closely study the particular conditions of the project and take these factors into account. They are therefore in the best position to determine what material or materials are suitable.

If more than one material is suitable, economics will likely become a factor. The best value may not always be the cheapest bid. The lowest-cost material that meets the specification may indeed be the best value, or the highest-cost material may be the best value over the

long-run, taking into account factors such as the durability of the material and financing terms.

To ensure that taxpayers get the best value, governments should embrace competitive bidding. Free competitive markets raise quality and lower prices. Governments should refrain from imposing regulations that negate the market incentives for industries to lower costs and provide better products.

Businesses should make their best proposal for the work required, and governments should select the bid that provides the best value for taxpayers. Taxpayers can and should make local officials justify their decisions and hold them accountable.

Indeed, Ohio recognizes the value of competitive bids and state law requires government contracts be open to competitive bidding in most situations.<sup>[1]</sup> As the Ohio Supreme Court has explained, competitive bids on government projects "protect the taxpayer, prevent excessive costs and corrupt practices, and provide open and honest competition in bidding for public contracts."<sup>[2]</sup>

Engineers may worry that absent a restrictive ordinance, the county may be required to choose the lowest bid. But that is not the case. Ohio law instructs that contracts be awarded to the "lowest and *best* bidder."<sup>[3]</sup> Thus, if, in the engineer's professional opinion, the lowest bid is not also the best bid, the engineer may legally select the better product or service even at the higher price.<sup>[4]</sup>

As communities look to repair and replace expensive infrastructure, local leaders should embrace competition and accountability and respect the know-how of the trained professionals tasked with fixing the problems.

Thank you for your consideration. Appended to my testimony is a **reprint of an op-ed** that Buckeye recently published in a local Ohio newspaper which you may also find useful and informative.

---

[1] Ohio Rev. Code Ann. § 307.86.

[2] *Cementech v. City of Fairlawn*, 109 Ohio St. 3d 475, at 477.

[3] Ohio Rev. Code Ann. § 735.05 (Emphasis added).

[4] *Danis Clarkco Landfill Co. v. Clark County Solid Waste Management Dist.*, 73 Ohio St. 3d 590, at 603.

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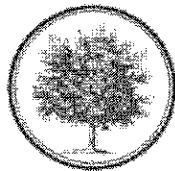
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**To:** Kasych, Shawn  
**Subject:** Making Ohio Work for the Little Guy, By Greg R. Lawson

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THE BUCKEYE INSTITUTE

## Making Ohio Work for the Little Guy

By Greg R. Lawson  
November 7, 2017

Many local government officials in Ohio are among those from the **238 different cities** waiting with baited breath to find out if their bid to secure the new Amazon headquarters has a shot. Indeed, **Cincinnati** may offer nearly \$1 billion in tax breaks while **Cleveland**, though skittish about disclosing its offering, no doubt will pony up big breaks too, as will **Columbus**. However, something amid all this hype (and hyperventilation) is being lost, which is, most new jobs come from small business (those employing fewer than 50 people).

That's right, most real job growth in Ohio's economy is not going to come from a blockbuster deal with high-tech behemoths like Amazon or **Facebook**. Rather, it will come from new start-ups and small business. Several years ago, the **Kaufmann Foundation** concluded that between 1977 and 2005 existing U.S. firms sustained a net *loss* of jobs per year, while first year start-up businesses added an average of three

million jobs annually. Most new businesses, of course, start small, which means that attracting new *small* businesses is vital to Ohio's economic future.

Interestingly, as outlined in a **new survey** from Thumbtack.com, small business owners don't want big targeted tax breaks. Rather, they want simplified regulations, better training programs, and easier to navigate government websites and bureaucracy. The survey found that business owners reported they spent more than 8.5 hours a year just trying to comply with government regulations and file all the needed paperwork.

While there were several positive comments in the Thumbtack survey that reflect some of the efforts government has made to be more business friendly, there can be no doubt there is room for improvement. Comments from those **surveyed in Ohio** highlight some of the frustration. For example, a life coach in Columbus said it was easier to start a business in Washington state than Ohio. An animal trainer in Granville summed it up very well:

"Ohio, on one level is a business-friendly state, but for very small businesses such as mine, it can be very difficult navigating the labyrinth of taxes, registrations, and all the regulations and compliance issues."

Herein lies the problem. Ohio does well for medium and big businesses, but more must be done for the little guy.

The Buckeye Institute has pointed out several areas for improvement:

- Fixing Ohio's absurdly complex **municipal income tax**;
- **Making state taxation simpler**;
- **Reforming local government** to become more efficient; and
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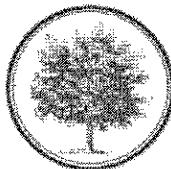
**Reform Ohio's burdensome occupational licensing system.**

Naturally, this is just a start. But these are the policies that will keep Ohio moving forward and will have a more beneficial impact than lavishing incentives on the trendy companies. Furthermore, at a time when many Ohioans feel left out of the new economy, showing them that Ohio's leaders really are looking out for them is much more

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**THE BUCKEYE INSTITUTE**

## **The Future of Medicaid Depends on Meaningful Reform**

**By Greg R. Lawson**  
**November 15, 2017**

On October 30, the Controlling Board authorized **spending another \$264 million** of your taxpayer dollars so that the state could draw down more than \$630 million of your taxpayer dollars from the federal government to pay for Medicaid. As I stated after the vote:

"Before any further dollars are appropriated, the General Assembly should make certain that the Kasich Administration will seek waivers that add meaningful personal responsibility requirements for those in the expansion population, **including the Healthy Ohio waiver**, which would empower Medicaid recipients to obtain better care, put Ohio's Medicaid program on sounder financial footing, and ensure that needy Medicaid enrollees have to access to good medical care."

Medicaid spending was exploding well before the misguided expansion in 2013. Despite the happy talk of Medicaid coming in "under budget," the influx of more than 700,000 able-bodied adults, according to the **latest enrollment numbers**, has nearly stressed the program to its breaking point. In **August 2017**, the total spending for Medicaid totaled \$2.4 billion.

That's is **\$354.9 million**, or 17.4 percent, more than spending for the same month in the previous fiscal year!

Fortunately, the Kasich Administration has said they are crafting waivers that will stabilize and improve Medicaid by including minimal work requirements and minimal cost sharing for the able-bodied adults in the expansion population (this excludes the elderly and the disabled). This is a positive development and one that will ensure Medicaid is stable and able to serve future generations of Ohioans.

To achieve this goal and ensure Medicaid stability, it is imperative that the General Assembly holds the administration accountable not only in merely drafting the waivers, but in ensuring that they accomplish meaningful reform.

The good news is, the director of the Centers for Medicare and Medicaid Services (CMS), Seema Verma, has stated the administration **will approve work requirements for Medicaid**. However, we must be careful, work requirements with a laundry list of exemptions will not stabilize Medicaid and ensure it is around in the future, nor will premiums that are too low. We must find the proper balance that enables low-income Ohioans in the expansion population to afford Medicaid while stabilizing the program.

Ultimately, for any of these waivers to be effective in stabilizing Medicaid there must be teeth in the requirements, otherwise they are little more than political window dressing. One such provision should be a requirement that abled-body adults in the expansion population must pay the minimal premium and meet the minimal work requirement to access the program. These requirements would not only help stabilize Medicaid, but would help people rebuild their lives through personal responsibility.

These ideas aren't new, and they have been proven successful in many states for **children** in the **Children's Health Insurance Program**, better known as CHIP. Given the success of requirements in CHIP, it would be wise for Ohio to implement the same model for those abled-body adults in the Medicaid expansion population.

There are other requirements Ohio should look at. For example, people who arrive at the emergency room without any coverage should be treated under charity care laws. This

provision would encourage people to obtain and maintain health coverage when they are healthy. This policy has been approved by the CMS in a waiver requested by Iowa and will help reduce gaps in coverage while avoiding people only applying for Medicaid when they are sick. These provisions would create a more stable system and would enable people to more smoothly transition to private health insurance.

Ohio leaders have a chance to ensure the stability of Medicaid for future generations while providing care for those in need. This is an opportunity that should not be missed. If the administration is unwilling to move forward on these commonsense reforms, then the General Assembly should move forward with overriding vetoes including the **Medicaid Freeze and Healthy Ohio**.

Failure implement these commonsense reforms will only hasten the day of fiscal reckoning for Ohio.

*Greg R. Lawson is the research fellow at The Buckeye Institute.*

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### Exclusive: Chatterjee details interim plan to save coal, nuclear plants

The acting FERC chairman wants RTOs and ISOs to update their tariffs to keep coal and nuclear plants online as his commission considers broader changes to wholesale market compensation.

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## **PJM price formation proposal would dramatically change how prices are set in the RTO**

A proposal from the grid operator to incentivize "inflexible" generation could fit squarely within the Trump administration's efforts to save baseload generation in power markets.

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Feature Story

### **Do utilities need rate design for electric vehicle charging?**

A Massachusetts muni is using analytics and a traditional marketing approach to shift EV charging off-peak. Will it work for everyone?

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### **PPL Corp. to shutter 2 older coal-fired units in Kentucky**

Following the closure, Kentucky Utilities and Louisville Gas and Electric Co. will have mothballed eight coal-fired units in about five years.

---

### **EPA: 85% of US counties meet latest ozone standards, but other designations delayed**

The agency has concluded that 2,646 counties, two tribal areas and five territories meet the 2015 National Ambient Air Quality Standards for the pollutant.

---

### **Texas, Pennsylvania commissions back to full strength after new appointments**

In Texas, Gov. Greg Abbott has appointed Arthur D'Andrea to the Public Utility Commission. And Norman Kennard will take FERC Commissioner Robert Powelson's seat left empty since August.

---

### **US eyes safety rules for small modular reactors, as nuclear touted at UN climate meeting**

The Nuclear Regulatory Commission has released a regulatory basis document supporting new rules to tackle emergency preparedness requirements for small modular reactors.

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### **APS customers say new bills higher than expected after rate case decision**

Customers within Arizona Public Service Co. could fight for a rehearing over the rate case if they sign a petition with enough names, but a reversal of the increase is unlikely.

---

#### **FEATURE STORY**

### **= AFERC storage/DER integration proposal gets high marks, but other priorities loom**

The commission's proposed rule raises important issues, but could face delays as it tackles the grid resilience NOPR and other matters.

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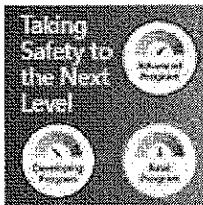
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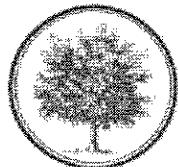
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**FOR IMMEDIATE RELEASE**  
November 17, 2017

### **Buckeye's Rea Hederman: Something to be Thankful for in Ohio's Jobs Numbers**

**Columbus, OH** - Rea S. Hederman Jr., executive vice president at The Buckeye Institute, commented on newly released unemployment data from the **Ohio Department of Job and Family Services**.

"In time for the holidays, the Ohio labor market is looking up. The household survey showed a solid month for the labor market with the unemployment rate falling from 5.3 percent to 5.1 as more Ohioans found work. Further positive news is that Ohio now

matches the U.S. average in labor force participation at 62.7 percent, after trailing the national average for much of the past year.

"The business survey was also positive, although not as strong, as only 1,000 private sector jobs were added to the Ohio economy. This is in part due to a fall in construction job opportunities (-1,100), a result of unseasonably wet weather in October. Local government hiring was up, and while positive for those who were hired, places additional strain on taxpayers.

"All in all, the Ohio economy is slowly looking up from dismal numbers this summer, and will hopefully continue to improve."

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**To:** Kasych, Shawn  
**Subject:** Nov. 17 - The end of regulated utilities in CA?; Chatterjee: We're past the DOE NOPR

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## TOP NEWS

### **Chatterjee pans 'hyperbolic' reaction to his interim NOPR pitch**

Chatterjee said his temporary plan means "we've moved past" debating the DOE NOPR, and that many critics of his proposal "frankly don't understand it."

## FEATURE STORY

## **Does C-C-A spell the end of the regulated electric utility in California?**

Alternative providers may deliver more than 85% of the Golden State's electricity by the mid-2020s, and there is a lot of uncertainty about how much they will be regulated.

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## **SCE&G proposes new gas, solar generation to replace failed Summer nuke expansion**

The utility would continue to collect \$29.5 million per month from ratepayers for the cancelled reactors under a new plan submitted to regulators.

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## **Why tracker bankability reports aren't telling the whole story**

Given the current industry dynamics, many financial models make no distinction between architectures that are proven to require little or no long-term maintenance and those that require continuous maintenance, or are prone to failure.

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## **Northern Pass transmission project moves closer to construction with DOE approval**

Eversource Energy wants to construct a 192-mile transmission line that would move hydroelectric power from Canada to New England.

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## **FERC rejects New York petition for rehearing over Millennium pipeline project, setting up court battle**

Meanwhile, North Carolina regulators asked FERC to reconsider the 14% equity return granted to developers of the Atlantic Coast Pipeline.

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## **Virginia regulators approve draft carbon cap-and-trade plan**

The draft regulatory package, approved unanimously by the State Air Pollution Control Board, would link Virginia with the Regional Greenhouse Gas Initiative and aim to cut power sector emissions 30% between 2020 and 2030.

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OPINION POST

## **It's time for smarter 'smart' meters: Future-proofing utility meter rollouts**

New energy technologies, coupled with growing consumer interest in home energy usage, call for more intelligent metering systems to better integrate utility and consumer services.

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## **Maine proposes new wind development rules**

The proposed rules largely incorporate existing Department of Environmental Protection practice into the review of wind energy projects. Officials say it is not anticipated to have a substantial fiscal impact.

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## **Do utilities need rate design for electric vehicle charging?**

A Massachusetts muni is using analytics and a traditional marketing approach to shift EV charging off-peak. Will it work for everyone?

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## Colorado Springs still rolls coal in heart of city, but may shut Drake plant by 2025 as residents fume

 BLOOMBERG

## Koch-funded group prods Trump's EPA to say climate change not a risk

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## Siemens to cut 6,900 jobs to tackle flailing turbines business

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## At least 15 states join global alliance to phase out coal by 2030

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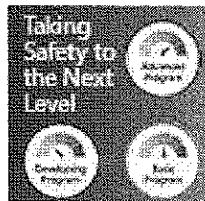
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The acting FERC chairman wants RTOs and ISOs to update their tariffs to keep coal and nuclear plants online as his commission considers broader changes to wholesale market compensation.

### 60-day clock starts for Trump to decide on solar panel tariffs

The International Trade Commission sent recommendations to President Trump in a controversial trade case over import relief for foreign-made solar panels.

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## **PJM price formation proposal would dramatically change how prices are set in the RTO**

A proposal from the grid operator to incentivize "inflexible" generation could fit squarely within the Trump administration's efforts to save baseload generation in power markets.

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### **Why tracker bankability reports aren't telling the whole story**

Given the current industry dynamics, many financial models make no distinction between architectures that are proven to require little or no long-term maintenance and those that require continuous maintenance, or are prone to failure.

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## **Colorado electric co-op rolls out 'community battery' program**

United Power Cooperative and SoCore Energy are developing a 4 MW, 16 MWh storage project to shave peaks and reduce demand charges as part of a new program.

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## **Chatterjee pans 'hyperbolic' reaction to his interim NOPR pitch**

Chatterjee said his temporary plan means "we've moved past" debating the DOE NOPR, and that many critics of his proposal "frankly don't understand it."

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## **As feds focus on baseload, grid modernization is sweeping the nation**

More than 30 states are considering far-reaching modernization and utility business model reforms, including new initiatives to integrate battery storage into grid planning processes.

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Alternative providers may deliver more than 85% of the Golden State's electricity by the mid-2020s, and there is a lot of uncertainty about how much they will be regulated.

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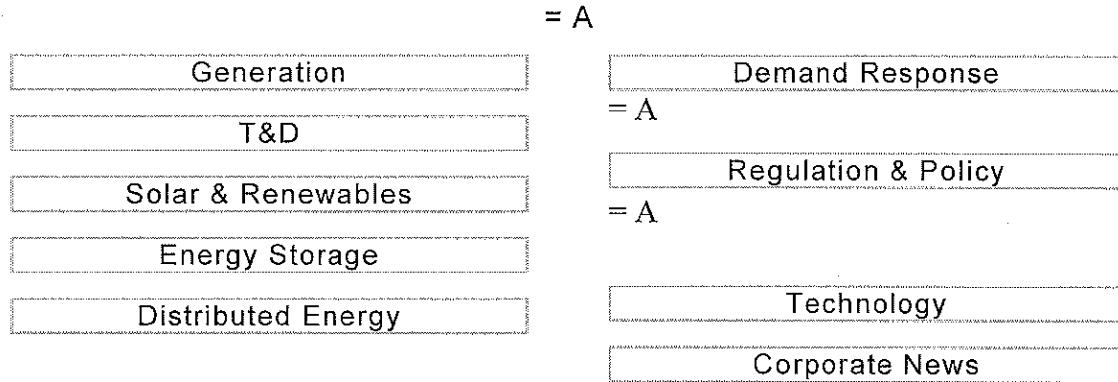
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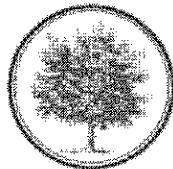
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## **License to Work 2.0: Past Time to End the Permission Slip Policy on Jobs**

By Greg R. Lawson  
November 20, 2017

In all too many cases occupational licensing is little more than a mandatory permission slip that is imposed by a "Big Brother" like government and does little to ensure real public safety. Many of these burdens make it difficult for lower-income Ohioans to move up the ladder of economic success by getting a job and getting it quickly.

Earlier this month the Institute for Justice (IJ) released their second edition of the groundbreaking *License to Work* report. Building off their previous work, IJ outlined once again just how the explosive growth of occupational licensing has continued from coast to coast, including here in the Buckeye State.

Echoing concerns raised by their first edition of *License to Work* and by The Buckeye Institute in our own *Forbidden to Succeed* report, this version of the **IJ report** shows that while Ohio continues to license fewer low- to moderate-income jobs than many other states, those it does license creak under greater burdens than well over half of the other states.

Consider that Ohio is the only state to license social- and human-service assistants while placing a particularly high burden on prospective auctioneers. Further, according to the IJ methodology, Ohio barbers lose 420 days to education and cosmetologists 350 days. By contrast, emergency medical technicians lose only 35 days.

This means it takes less time for someone who literally could have your life in their hands to meet the government requirements for work than it does for a person to whom you are merely entrusting your hair. This sort of ridiculousness is why we have spoken out so often on the need to lower the burdens on cosmetologists.

But we aren't the only ones who recognize that these onerous requirements are making it harder for people to get jobs and start working. The **Heritage Foundation**, the **Brookings Institute**, and to both the **Obama White House** and the **Trump Administration** have called for reducing these sorts of burdensome licensing requirements.

Ohioans should not have to get approval from the government in order to get a job and Ohio should adopt the least restrictive type of regulation that ensures public health and safety. And given the vast amount of information available to consumers on sites like Angie's List, Yelp, and the Better Business Bureau, it is past time for the government to get out of the business of giving professionals a seal of approval to work.

As burdensome as these regulations are on Ohioans, the burdens increase significantly on the families of military personnel who regularly move from state to state and are forced to reapply for licenses each time. The good news is, on this front there has been progress. **Ohio policymakers joined** Buckeye's fight to recognize out-of-state licenses for military spouses, which we raised in 2016 in our policy brief, *Increasing Job Opportunities for Military Families*.

Despite this success, much work remains to be done for Ohioans and it is well past time for Ohio to get serious about reducing the burden of occupational licensing. It is time for Big Brother to get out of the way so people can get the jobs they are trained for and start building a better future for themselves and their families.

*Greg R. Lawson is the research fellow at The Buckeye Institute.*

# # #

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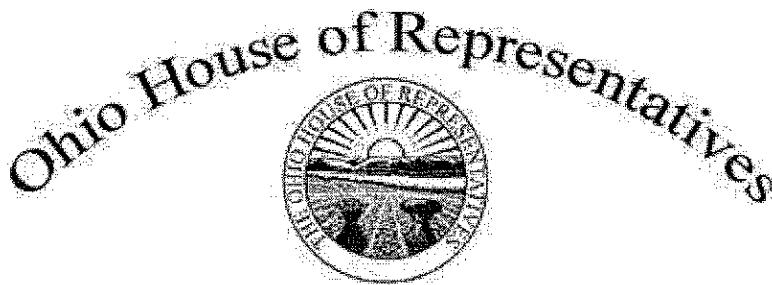
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**From:** Financial Institutions Housing & Urban Development Committee  
**Sent:** Tuesday, November 21, 2017 9:15 AM  
**To:** Hucke, Justin  
**Subject:** FIHUD Committee Announcement - 11.28.2017  
**Attachments:** notice.pdf



## ANNOUNCEMENT OF COMMITTEE MEETING

**COMMITTEE:** Financial Institutions, Housing, and Urban Development  
**CHAIR:** Jonathan Dever  
**DATE:** Tuesday, November 28, 2017  
**TIME:** 9:00 AM  
**ROOM:** Room 114

## AGENDA

<u>BILL</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>STATUS</u>
H. B. No. 390	Rep. Merrin	Clarify computation of timelines for forcible entry and detainer	1st Hearing Sponsor
H. B. No. 386	Rep. Henne, Rep. Kelly	Modify credit reporting agency fees for a credit report freeze	1st Hearing Sponsor
H. B. No. 320	Rep. Hagan, Rep. Roegner	Inform public about state financial status	2nd Hearing Proponent
H. B. No. 353	Rep. Reineke	Exempt loop credit and reward cards from Unclaimed Funds Law	3rd Hearing Poss. Am. Prop/Opp/IP

H. B. No. 282	Rep. Hambley	Prohibit criminal mischief against residential rental property	4th Hearing Poss. Am. Prop/Opp/IP
H. B. No. 329	Rep. Pelanda	Modify law governing pyramid promotional schemes	4th Hearing Poss. Vote Prop/Opp/IP

The Chair respectfully requests **an electronic copy** of oral and/or written testimony and all amendments to FinancialInstitutionsHousing&UrbanDevelopmentCommittee@ohiohouse.gov at least 24 hours prior to committee.

# Ohio House of Representatives



## ANNOUNCEMENT OF COMMITTEE MEETING

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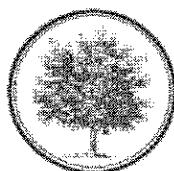
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**From:** The Buckeye Institute  
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**To:** Kasych, Shawn  
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By Daniel J. Dew

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## THE BUCKEYE INSTITUTE

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Ohio's prison population has fallen below 50,000 for the first time since 2013, and Buckeye's Daniel J. Dew looks at some of the policy decisions behind this milestone along with some funny videos to remind us what else was happening in 2013...hint we beat The Team Up North.

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### **Gotta Get Back in Time: Ohio's Prison Population Falls to 2013 Levels**

**By Daniel J. Dew**  
**November 21, 2017**

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Huey Lewis And The News - Back In Time



The **Ohio Department of Corrections and Rehabilitations** just released information that Ohio's prison population has fallen below 50,000 down to **49,860**.

That's good news and hasn't happened since 2013, when...

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**The Office** was wrapping up its final season.